

STATE OF KANSAS

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SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **Senate Substitute for HB 2109**, As Further Amended by Senate Committee of the Whole, on page 96, in line 8, after "income" by inserting "not including guaranteed payments as defined in section 707(c) of the federal internal revenue code and as reported to the taxpayer from federal schedule K-1, (form 1065-B) in box 9, code F or as reported to the taxpayer from federal schedule K-1, (form 1065) in box 4";

On page 98, in line 32, by striking "5.95%" and inserting "6.5%";

On page 103, in line 34, by striking "and"; in line 38, after "section" by inserting "; and

(x) commencing January 1, 2016, and thereafter, the gross receipts from the sale of food and food ingredients shall be taxed at 6.0%";

On page 105, in line 15, after "(5)" by inserting "(A)"; also in line 15, by striking "14.565%" and inserting "16.295%"; in line 17, by striking "5.95%" and inserting "6.5%"; following line 19, by inserting:

"(B) On January 1, 2016, the state treasurer shall credit 16.295% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rates of 6.5% and 6.0%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund."; in line 21, by striking "14.610%" and inserting "16.314%"; in line 22, by striking "rate" and inserting "rates"; also in line 22, by striking "5.95%" and inserting "6.5% and 6.0%";

On page 106, in line 36, by striking "5.95%" and inserting "6.50%", except that commencing January 1, 2016, such rate shall be 6.0% upon food and food ingredients as defined by K.S.A. 79-3602,

and amendments thereto";

On page 108, in line 17, after "(5)" by inserting "(A)"; also in line 17, by striking "14.565%" and inserting "16.295%"; in line 19, by striking "5.95%" and inserting "6.5%"; following line 21, by inserting:

"(B) On January 1, 2016, the state treasurer shall credit 16.295% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rates of 6.5% and 6.0%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund."; in line 23, by striking "14.610%" and inserting "16.314%"; in line 24, by striking "rate" and inserting "rates"; also in line 24, by striking "5.95%" and inserting "6.5% and 6.0%";

On page 109, following line 31, by inserting:

"New Sec. 11. A tax is hereby imposed upon the privilege of selling or dealing in electronic cigarettes in this state by any person engaged in business as a distributor thereof, at the rate of \$.20 per milliliter of consumable material and a proportionate tax at the like rate on all fractional parts thereof. For electronic cigarettes in the possession of retail dealers for which tax has not been paid, tax shall be imposed under this subsection at the earliest time the retail dealer: (a) Brings or causes to be brought into this state from without the state electronic cigarettes for sale; (b) makes, manufactures or fabricates electronic cigarettes in this state for sale in this state; or (c) sells electronic cigarettes to consumers within this state.

Sec. 12. K.S.A. 2014 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110. (a) *Resident Individuals*. Except as otherwise provided by ~~subsection (a)~~ of K.S.A. 79-3220(a), and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in accordance with the following tax schedules:

(1) *Married individuals filing joint returns*.

## (A) For tax year 2012:

If the taxable income is:	The tax is:
Not over \$30,000.....	3.5% of Kansas taxable income
Over \$30,000 but not over \$60,000 .....	\$1,050 plus 6.25% of excess over \$30,000
Over \$60,000.....	\$2,925 plus 6.45% of excess over \$60,000

## (B) For tax year 2013:

If the taxable income is:	The tax is:
Not over \$30,000.....	3.0% of Kansas taxable income
Over \$30,000.....	\$900 plus 4.9% of excess over \$30,000

## (C) For tax year 2014:

If the taxable income is:	The tax is:
Not over \$30,000.....	2.7% of Kansas taxable income
Over \$30,000.....	\$810 plus 4.8% of excess over \$30,000

(D) For tax ~~year~~ years 2015 through 2017:

If the taxable income is:	The tax is:
Not over \$30,000.....	2.7% of Kansas taxable income
Over \$30,000.....	\$810 plus 4.6% of excess over \$30,000

(E) For tax year ~~2016~~ 2018:

If the taxable income is:	The tax is:
Not over \$30,000.....	<del>2.4%</del> <u>2.3%</u> of Kansas taxable income
Over \$30,000.....	<del>\$720</del> <u>\$690</u> plus <del>4.6%</del> <u>4.1%</u> of excess over \$30,000

(F) For tax year ~~2017~~ 2019:

If the taxable income is:	The tax is:
Not over \$30,000.....	<del>2.3%</del> <u>2.0%</u> of Kansas taxable income
Over \$30,000.....	<del>\$690</del> <u>\$600</u> plus <del>4.6%</del> <u>4.1%</u> of excess over \$30,000

(G) For tax year ~~2018~~ 2020, and all tax years thereafter:

If the taxable income is:      The tax is:

Not over \$30,000.....	<del>2.3%</del> <u>1.9%</u> of Kansas taxable income
Over \$30,000.....	<del>\$690</del> <u>\$570</u> plus <del>3.9%</del> <u>3.8%</u> of excess over \$30,000

(2) *All other individuals.*

## (A) For tax year 2012:

If the taxable income is:	The tax is:
Not over \$15,000.....	3.5% of Kansas taxable income
Over \$15,000 but not over \$30,000.....	\$525 plus 6.25% of excess over \$15,000
Over \$30,000.....	\$1,462.50 plus 6.45% of excess over \$30,000

## (B) For tax year 2013:

If the taxable income is:	The tax is:
Not over \$15,000.....	3.0% of Kansas taxable income
Over \$15,000.....	\$450 plus 4.9% of excess over \$15,000

## (C) For tax year 2014:

If the taxable income is:	The tax is:
Not over \$15,000.....	2.7% of Kansas taxable income
Over \$15,000.....	\$405 plus 4.8% of excess over \$15,000

(D) For tax year ~~years~~ 2015 through 2017:

If the taxable income is:	The tax is:
Not over \$15,000.....	2.7% of Kansas taxable income
Over \$15,000.....	\$405 plus 4.6% of excess over \$15,000

(E) For tax year ~~2016~~ 2018:

If the taxable income is:	The tax is:
Not over \$15,000.....	<del>2.4%</del> <u>2.3%</u> of Kansas taxable income
Over \$15,000.....	<del>\$360</del> <u>\$345</u> plus <del>4.6%</del> <u>4.1%</u> of excess over \$15,000

(F) For tax year ~~2017~~ 2019:

If the taxable income is:	The tax is:
Not over \$15,000.....	<del>2.3%</del> <u>2.0%</u> of Kansas taxable income

Over \$15,000.....~~\$345~~\$300 plus ~~4.6%~~4.1% of excess over  
\$15,000

(G) For tax year ~~2018~~ 2020, and all tax years thereafter:

If the taxable income is:	The tax is:
Not over \$15,000.....	<del>2.3%</del> <u>1.9%</u> of Kansas taxable income
Over \$15,000.....	<del>\$345</del> <u>\$285</u> plus <del>3.9%</del> <u>3.8%</u> of excess over \$15,000

(b) *Nonresident Individuals.* A tax is hereby imposed upon the Kansas taxable income of every nonresident individual, which tax shall be an amount equal to the tax computed under subsection (a) as if the nonresident were a resident multiplied by the ratio of modified Kansas source income to Kansas adjusted gross income.

(c) *Corporations.* A tax is hereby imposed upon the Kansas taxable income of every corporation doing business within this state or deriving income from sources within this state. Such tax shall consist of a normal tax and a surtax and shall be computed as follows:

(1) The normal tax shall be in an amount equal to 4% of the Kansas taxable income of such corporation; and

(2) (A) for tax year 2008, the surtax shall be in an amount equal to 3.1% of the Kansas taxable income of such corporation in excess of \$50,000;

(B) for tax years 2009 and 2010, the surtax shall be in an amount equal to 3.05% of the Kansas taxable income of such corporation in excess of \$50,000; and

(C) for tax year 2011, and all tax years thereafter, the surtax shall be in an amount equal to 3% of the Kansas taxable income of such corporation in excess of \$50,000.

(d) *Fiduciaries.* A tax is hereby imposed upon the Kansas taxable income of estates and trusts at the rates provided in ~~paragraph (2)~~ of subsection (a)(2) hereof.

(e) Tax rates provided in this section shall be adjusted pursuant to the provisions of K.S.A. 2014 Supp. 79-32,269, and amendments thereto.

(f) Notwithstanding the provisions of subsections (a) and (b), for tax year 2016, and all tax years thereafter, married individuals filing joint returns with taxable income of \$12,500 or less, and all other individuals with taxable income of \$5,000 or less, shall have a tax liability of zero.

Sec. 13. K.S.A. 2014 Supp. 79-32,120 is hereby amended to read as follows: 79-32,120. (a)

(1) If federal taxable income of an individual is determined by itemizing deductions from such individual's federal adjusted gross income, such individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction.

(2) For the tax year commencing on January 1, 2013, the Kansas itemized deduction of an individual means 70% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(3) For the tax year commencing on January 1, 2014, the Kansas itemized deduction of an individual means 65% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

(4) For the tax ~~year~~ years commencing on and after January 1, 2015, the Kansas itemized deduction of an individual means ~~60% of the total amount of~~ following deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code and with the modifications specified in this section: (A) 100% of charitable contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code; (B) 50% of the amount of qualified residence interest as provided in section 163(h) of the federal internal revenue code; and (C) 50% of the amount of taxes on real and personal property as provided in section 164(a) of the federal internal revenue code.

~~(5) For the tax year commencing on January 1, 2016, the Kansas itemized deduction of an~~

~~individual means 55% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.~~

~~(6) For tax years commencing on and after January 1, 2017, the Kansas itemized deduction of an individual means 50% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.~~

(b) The total amount of deductions from federal adjusted gross income shall be reduced by the total amount of income taxes imposed by or paid to this state or any other taxing jurisdiction to the extent that the same are deducted in determining the federal itemized deductions and by the amount of all depreciation deductions claimed for any real or tangible personal property upon which the deduction allowed by K.S.A. 2014 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed.

(c) The provisions of this section that provide for a reduction in the total amount of deductions from federal adjusted gross income shall not apply to contributions that qualify as charitable contributions allowable as deductions in section 170 of the federal internal revenue code, and amendments thereto.

(d) Notwithstanding any provision of this section to the contrary, for taxable years commencing after January 1, 2013, the total amount of deductions from federal adjusted gross income shall be reduced by the total amount of wagering losses claimed as an itemized deduction in section 165(d) of the federal internal revenue code, and amendments thereto.

Sec. 14. K.S.A. 2014 Supp. 79-32,269 is hereby amended to read as follows: 79-32,269. (a)

(1) Except as provided in subsection (a)(2), commencing with fiscal year ~~2018~~ 2021, in any fiscal year in which the amount of selected actual state general fund receipts from such fiscal year exceeds the

selected actual state general fund receipts for the immediately preceding fiscal year by more than 2%, the director of legislative research shall certify such excess amount to the secretary of revenue and the director of the budget. Upon receipt of such certified amount, the secretary shall compute the excess percentage increase in selected actual state general fund receipts above 2%. Based on such excess percentage of calculated receipt growth, the secretary shall compute the income tax rate reductions to go into effect for the next tax year that would reduce by such certified amount the tax rates during the fiscal year after the next fiscal year according to the provisions of this section, as follows: (A) Rate reductions for individual income tax rates shall be applied to reduce the highest marginal income tax rate applicable to the current tax year, by such excess percentage minus 0.5%, and the lowest marginal income tax rate applicable to the current tax year by such excess percentage plus 0.5%, except that in no case shall such excess percentage plus 0.5% result in an income tax rate increase. In any such computation by the secretary pursuant to this subsection: (i) The resulting income tax rate shall be rounded down to the nearest 0.1%; and (ii) in any case in which the income tax rate for any individual marginal income tax rate is below 0.4%, such rate shall be 0%. Based on all such determinations, the secretary shall reduce individual income tax rates prescribed by K.S.A. 79-32,110, and amendments thereto, as required by this section;

(B) upon all individual marginal income tax rates being reduced to 0% pursuant to the provisions of subsection (a)(1)(A), rate reduction next shall be applied for the surtax on corporations applicable to the current tax year by such excess percentage. In any such computation by the secretary pursuant to this subsection in which the surtax is below 0.4%, such surtax rate shall be 0%. Based on such determination, the secretary shall reduce the surtax on corporations prescribed by K.S.A. 79-32,110, and amendments thereto, as required by this section; and

(C) upon the surtax on corporations being reduced to a rate which when combined with the normal tax rate on corporations is equal to or below the combined surtax and normal tax imposed on

national banking associations and state banks or is equal to or below the combined surtax and normal tax imposed on trust companies and savings and loan associations, rate reductions shall be proportionately applied for the tax on corporations, the tax on national banking associations and state banks, and the tax on trust companies and savings and loan associations. Such rate reductions shall be first applied to the surtax until reduced to 0% and then applied to the normal tax for each such tax. In any such computation by the secretary pursuant to this subsection in which any such tax is below 0.4%, such tax rate shall be 0%. Based on such determination, the secretary shall reduce the surtax and the normal tax on corporations prescribed by K.S.A. 79-32,110, and amendments thereto, the surtax and normal tax on national banking associations and state banks prescribed by K.S.A. 79-1107, and amendments thereto, and the surtax and normal tax on trust companies and savings and loan associations prescribed by K.S.A. 79-1108, and amendments thereto, as required by this section.

(2) In any fiscal year in which the amount of selected actual state general fund receipts for such fiscal year are 102% or less than the selected actual state general fund receipts from the immediately preceding fiscal year, the director of legislative research shall certify such amount and fact to the secretary of revenue and the director of the budget. Upon receipt of such amount and fact, the secretary of revenue shall not make any adjustment to the income tax rates for that tax year.

(b) The secretary of revenue shall report any reduction in income tax rates prescribed by this section to the chairperson of the assessment and taxation committee of the senate, the chairperson of the taxation committee of the house of representatives and the governor, and shall cause notice of any such reduction to be published in the Kansas register prior to September 15 of the calendar year immediately preceding the tax year in which such reduction takes effect.

(c) As used in this section, "selected actual state general fund receipts" means receipts from the following taxes and fees: Individual and corporation income taxes imposed under K.S.A. 79-32,110, and amendments thereto, financial institutions privilege taxes imposed under article 11 of

chapter 79 of the Kansas Statutes Annotated, and amendments thereto, retail sales taxes imposed under K.S.A. 79-3601 et seq., and amendments thereto, compensating use taxes imposed under K.S.A. 79-3701 et seq., and amendments thereto, cigarette and tobacco product taxes imposed under K.S.A. 79-3301 et seq., and amendments thereto, cereal malt beverage and liquor gallonage taxes imposed under K.S.A. 41-501 et seq., and amendments thereto, liquor enforcement taxes imposed under K.S.A. 79-4101 et seq., and amendments thereto, liquor drink taxes imposed under K.S.A. 79-41a01 et seq., and amendments thereto, corporation franchise taxes imposed under K.S.A. 79-5401, and amendments thereto, annual franchise fees charged pursuant to law and mineral severance taxes imposed under K.S.A. 79-4216 et seq., and amendments thereto.

Sec. 15. K.S.A. 2014 Supp. 79-3301 is hereby amended to read as follows: 79-3301. As used in K.S.A. 79-3301 et seq., and amendments thereto:

(a) "Carrier" means one who transports cigarettes from a manufacturer to a wholesale dealer or from one wholesale dealer to another.

(b) "Carton" means the container used by the manufacturer of cigarettes in which no more than 10 packages of cigarettes are placed prior to shipment from such manufacturer.

(c) "Cigarette" means any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco.

(d) "Consumer" means the person purchasing or receiving cigarettes or tobacco products for final use.

(e) "Dealer" means any person who engages in the sale or manufacture of cigarettes or electronic cigarettes in the state of Kansas, and who is required to be licensed under the provisions of this act.

(f) "Dealer establishment" means any location or premises, other than vending machine

locations, at or from which cigarettes or electronic cigarettes are sold, and where records are kept.

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

(h) "Distributor" means: (1) Any person engaged in the business of selling tobacco products or electronic cigarettes in this state who brings, or causes to be brought, into this state from outside the state any tobacco products or electronic cigarettes for sale;

(2) any person who makes, manufactures, fabricates or stores tobacco products or electronic cigarettes in this state for sale in this state; or

(3) any person engaged in the business of selling tobacco products outside this state who ships or transports tobacco products or electronic cigarettes to any person in the business of selling tobacco products or electronic cigarettes in this state.

(i) "Division" means the division of taxation.

(j) "License" means the privilege of a licensee to sell cigarettes ~~or~~ tobacco products or electronic cigarettes in the state of Kansas, and the written evidence of such authority or privilege as issued by the director.

(k) "Licensee" means any person holding a current license issued pursuant to this act.

(l) "Manufacturer's salesperson" means a person employed by a cigarette manufacturer who sells cigarettes, manufactured by such employer and procured from wholesale dealers.

(m) "Meter imprints" means tax indicia applied by means of ink printing machines.

(n) (1) "Package" means a container in which no more than 25 individual cigarettes are wrapped and sealed by the manufacturer of cigarettes prior to shipment to a wholesale dealer;

(2) for the purposes of ~~subsections (u), (v) and (w) of K.S.A. 79-3321(u), (v) and (w), and amendments thereto~~, "package" means the same as provided in 15 U.S.C. § 1332(4).

(o) "Person" means any individual, partnership, society, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee or any other person acting in a fiduciary or

representative capacity whether appointed by a court or otherwise and any combination of individuals.

(p) "Received" means the coming to rest of cigarettes for sale by any dealer in the state of Kansas.

(q) "Retail dealer" means a person, other than a vending machine operator, in possession of cigarettes or electronic cigarettes for the purpose of sale to a consumer, either directly or by remote sale through the internet.

(r) "Sale" means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes-~~or~~ tobacco products or electronic cigarettes, with or without consideration.

(s) "Sample" means cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product.

(t) "Self-service display" means a display that contains cigarettes or tobacco products and is located in an area openly accessible to a retail dealer's consumers, and from which such consumers can readily access cigarettes or tobacco products without the assistance of a salesperson. A display case that holds cigarettes or tobacco products behind locked doors does not constitute a self-service display.

(u) "Stamps" means tax indicia applied either by means of water applied gummed paper or heat process.

(v) "Tax indicia" means visible evidence of tax payment in the form of stamps or meter imprints.

(w) "Tobacco products" means cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes or electronic cigarettes.

(x) "Tobacco speciality store" means a dealer establishment that derives at least 75% of such dealer establishment's revenue from cigarettes or tobacco products.

(y) "Vending machine" means any coin operated machine, contrivance or device, by means of which merchandise may be sold.

(z) "Vending machine distributor" means any person who sells cigarette vending machines to a vending machine operator operating vending machines in the state of Kansas.

(aa) "Vending machine operator" means any person who places a vending machine, owned, leased or operated by such person, at locations where cigarettes are sold from such vending machine. The owner or lessee of the premises upon which a vending machine is placed shall not be considered the operator of the machine, nor shall the owner or lessee, or any employee or agent of the owner or lessee be considered an authorized agent of the vending machine operator, if the owner or lessee does not own or lease the machine and the owner's or lessee's sole remuneration from the machine is a flat rental fee or commission based upon the number or value of cigarettes sold from the machine, or a combination of both.

(bb) "Wholesale dealer" means any person who sells cigarettes to other wholesale dealers, retail dealers, vending machine operators and manufacturer's salespersons for the purpose of resale in the state of Kansas.

(cc) "Wholesale sales price" means the original net invoice price for which a manufacturer sells a tobacco product to a distributor, as shown by the manufacturer's original invoice.

(dd) "Importer" means the same as provided in 26 U.S.C. § 5702(l).

(ee) "Manufacturer" means the same as provided in 26 U.S.C. § 5702(d).

(ff) "Electronic cigarette" means a battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems. The term "electronic cigarette" includes

consumable material but does not include any product regulated as a drug or device under chapter V of the federal food, drug and cosmetic act.

(gg) "Consumable material" means any liquid nicotine solution or other substance containing nicotine that is sold, marketed or intended to be used in an electronic cigarette.

(hh) "Liquid nicotine container" means a bottle or other container of consumable material except where the consumable material is contained in a cartridge that is pre-filled and sealed by the manufacturer, and not intended to be opened by the consumer.

(ii) "Tank" means the reservoir section of an electronic cigarette where the consumable material from a liquid nicotine container is poured into and resides prior to its conversion to a vapor.

Sec. 16. K.S.A. 2014 Supp. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. ~~On and after July 1, 2002, and before January 1, 2003, the rate of such tax shall be \$.70 on each 20 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes, as the case requires. On and after January 1, 2003~~ July 1, 2015, the rate of such tax shall be \$.79 \$1.29 on each 20 cigarettes or fractional part thereof or \$.99 \$1.61 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

Sec. 17. K.S.A. 2014 Supp. 79-3310c is hereby amended to read as follows: 79-3310c. ~~(+) On or before July 30, 2002~~ 31, 2015, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, ~~2002~~ 2015. A tax of ~~\$.46~~ \$.50 on

each 20 cigarettes or fractional part thereof or ~~\$.575~~ \$.61 on each 25 cigarettes, as the case requires and ~~\$.46 or \$.575~~ \$.50 or \$.61, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to July 1, ~~2002~~ 2015, is hereby imposed and shall be due and payable ~~in equal installments on or before July 30, 2002, on or before September 30, 2002,~~ and on or before ~~December 30, 2002~~ July 31, 2015. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

~~(2) On or before January 30, 2003, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on January 1, 2003. A tax of \$.09 on each 20 cigarettes or fractional part thereof or \$.115 on each 25 cigarettes, as the case requires and \$.09 or \$.115, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to January 1, 2003, is hereby imposed and shall be due and payable in equal installments on or before January 30, 2003, on or before March 30, 2003, and on or before June 30, 2003. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.~~

Sec. 18. K.S.A. 2014 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall

be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of ~~90% on and after July 1, 2002, and before January 1, 2003, and~~ 80% 0.55% on and after July 1, 2015, and thereafter from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints 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. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes stamps or tax meter imprints required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax meter imprints upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters to secure payment of the proper taxes. No wholesale dealer shall affix

revenue tax meter imprints to original packages of cigarettes without first having obtained permission from the director to employ this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax meter imprints to original packages of cigarettes, the director shall require such dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of imprinting tax meter imprints upon original packages of cigarettes. All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter.

A licensed wholesale dealer may, for the purpose of sale in another state, transport cigarettes not bearing Kansas indicia of tax payment through the state of Kansas provided such cigarettes are contained in sealed and original cartons.

Sec. 19. K.S.A. 2014 Supp. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less ~~.90% on and after July 1, 2002, and before January 1, 2003, and .80% thereafter~~ 0.55% thereof if such stamps or meter imprints have been purchased from the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have

become unfit for sale upon proof thereof less ~~90% on and after July 1, 2002, and before January 1, 2003, and 80% thereafter~~ 0.55% of such tax.

Sec. 20. K.S.A. 2014 Supp. 79-3316 is hereby amended to read as follows: 79-3316. (a) All purchases of cigarettes or electronic cigarettes by any dealer shall be evidenced by an invoice, a duplicate of which shall be furnished the party receiving the cigarettes or electronic cigarettes from any dealer.

(b) Purchases of cigarettes or electronic cigarettes by wholesale dealers shall be made from the manufacturers of cigarettes or electronic cigarettes or from other Kansas licensed wholesale dealers. Purchases of cigarettes or electronic cigarettes by retail dealers or vending machine operators shall be from wholesale dealers.

(c) All invoices issued by wholesale dealers shall be in duplicate and a copy must accompany the consigned cigarettes or electronic cigarettes. Cigarettes or electronic cigarettes sold by a wholesale dealer to any other dealer shall be evidenced by invoices bearing the vendee's name and license number. A wholesale dealer selling cigarettes to a manufacturer's salesperson shall at the time of delivery of same make a true duplicate invoice inserting therein the name of the salesman together with the name of such salesperson's employer.

(d) All records pertaining to sales of cigarettes or electronic cigarettes by dealers in the state of Kansas shall be preserved for a period of three years and shall be available for inspection by the director or the director's designee at the dealer's place of business or, if the dealer has more than one place of business in the state, at a central location of the dealer.

(e) Every wholesale dealer shall report to the director on or before the 10<sup>th</sup> day of each month, stating the amount of cigarettes and the volume of consumable material in the case of electronic cigarettes sold during the preceding month and the amount of all cigarettes and the volume of

consumable material in the case of electronic cigarettes returned to the manufacturer. Any wholesale dealer who refuses any shipment or part of a shipment of unstamped cigarettes or untaxed electronic cigarettes or has a shortage in the shipment of cigarettes or electronic cigarettes consigned to such dealer shall in the monthly report next following the refusal or shortage report to the director the number of packages or cartons of cigarettes or electronic cigarettes refused or short and the name of the carrier from whom the cigarettes or electronic cigarettes were refused or shortage occurred. Such report shall be made on forms provided by the director and shall contain such other information as the director may require.

(f) Exemption from payment of ~~cigarette~~ tax on sale of cigarettes or electronic cigarettes made outside the state by any wholesale dealer shall be filed on forms provided by the director.

Sec. 21. K.S.A. 2014 Supp. 79-3334 is hereby amended to read as follows: 79-3334. (a) The Kansas department of revenue shall publish a list of active cigarette ~~and~~ tobacco and electronic cigarette licensees and shall update such list monthly.

(b) The list of active cigarette ~~and~~ tobacco and electronic cigarette licensees published as provided in subsection (a) shall contain the following information: County name, owner, business name, address, license type and license number.

(c) The provisions of this section shall be part of and supplemental to the Kansas cigarette and tobacco products act.

Sec. 22. K.S.A. 2014 Supp. 79-3602 is hereby amended to read as follows: 79-3602. Except as otherwise provided, as used in the Kansas retailers' sales tax act:

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

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

12, 2002.

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

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

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

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

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

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

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

(j) "Direct mail" means printed material delivered or distributed by United States mail or other delivery services to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. Direct mail includes tangible personal property supplied directly or indirectly by the purchaser to the

direct mail seller for inclusion in the package containing the printed material. Direct mail does not include multiple items of printed material delivered to a single address.

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

(l) "Educational institution" means any nonprofit school, college and university that offers education at a level above the ~~twelfth~~ 12<sup>th</sup> grade, and conducts regular classes and courses of study required for accreditation by, or membership in, the North Central Association of Colleges and Schools, the state board of education, or that otherwise qualify as an "educational institution," as defined by K.S.A. 74-50,103, and amendments thereto. Such phrase shall include: (1) A group of educational institutions that operates exclusively for an educational purpose; (2) nonprofit endowment associations and foundations organized and operated exclusively to receive, hold, invest and administer moneys and property as a permanent fund for the support and sole benefit of an educational institution; (3) nonprofit trusts, foundations and other entities organized and operated principally to hold and own receipts from intercollegiate sporting events and to disburse such receipts, as well as grants and gifts, in the interest of collegiate and intercollegiate athletic programs for the support and sole benefit of an educational institution; and (4) nonprofit trusts, foundations and other entities organized and operated for the primary purpose of encouraging, fostering and conducting scholarly investigations and industrial and other types of research for the support and sole benefit of an educational institution.

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

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

(o) "Gross receipts" means the total selling price or the amount received as defined in this act,

in money, credits, property or other consideration valued in money from sales at retail within this state; and embraced within the provisions of this act. The taxpayer, may take credit in the report of gross receipts for: (1) An amount equal to the selling price of property returned by the purchaser when the full sale price thereof, including the tax collected, is refunded in cash or by credit; and (2) an amount equal to the allowance given for the trade-in of property.

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

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

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

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

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

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

(6) Feed for 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, fur, or the production of offspring for use for any such purpose or purposes.

(q) "Isolated or occasional sale" means the nonrecurring sale of tangible personal property, or services taxable hereunder by a person not engaged at the time of such sale in the business of selling such property or services. Any religious organization which makes a nonrecurring sale of tangible personal property acquired for the purpose of resale shall be deemed to be not engaged at the time of such sale in the business of selling such property. Such term shall include: (1) Any sale by a bank, savings and loan institution, credit union or any finance company licensed under the provisions of the Kansas uniform consumer credit code of tangible personal property which has been repossessed by any such entity; and (2) any sale of tangible personal property made by an auctioneer or agent on behalf of not more than two principals or households if such sale is nonrecurring and any such principal or household is not engaged at the time of such sale in the business of selling tangible personal property.

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

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

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

(C) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to

perform as designed. For the purpose of this subsection, an operator must do more than maintain, inspect or set-up the tangible personal property.

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

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

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

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

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

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

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

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

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

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

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

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

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

(cc) "Prewritten computer software" means computer software, including prewritten upgrades, which is not designed and developed by the author or other creator to the specifications of a specific

purchaser. The combining of two or more prewritten computer software programs or prewritten portions thereof does not cause the combination to be other than prewritten computer software. Prewritten computer software includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. Where a person modifies or enhances computer software of which the person is not the author or creator, the person shall be deemed to be the author or creator only of such person's modifications or enhancements. Prewritten computer software or a prewritten portion thereof that is modified or enhanced to any degree, where such modification or enhancement is designed and developed to the specifications of a specific purchaser, remains prewritten computer software, except that where there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, such modification or enhancement shall not constitute prewritten computer software.

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

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

(B) electricity, gas and water; and

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

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

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

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

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

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

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

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

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

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

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

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

(D) delivery charges; and

(E) installation charges.

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

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

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

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

(D) one of the following criteria is met:

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

(ii) the purchaser identifies to the seller that the purchaser is a member of a group or

organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or

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

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

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

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

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

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

(E) commencing on July 1, 2006, and ending on June 30, 2009, cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale.

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

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

(oo) "Sourcing rules" means the rules set forth in K.S.A. 2014 Supp. 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments thereto, which shall apply to identify and determine the state and local taxing jurisdiction sales or use taxes to pay, or collect and remit on a

particular retail sale.

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Data processing and information services that allow data to be generated, acquired, stored, processed or retrieved and delivered by an electronic transmission to a purchaser where such purchaser's primary purpose for the underlying transaction is the processed data or information;
- (2) installation or maintenance of wiring or equipment on a customer's premises;
- (3) tangible personal property;
- (4) advertising, including, but not limited to, directory advertising;

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

(6) internet access service;

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

(8) ancillary services; or

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

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

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

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

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

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

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

(hhh) "Candy" means a preparation of sugar, honey or other natural or artificial sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the form of bars, drops or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration.

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

(jjj) (1) "Prepared food" means any of the following:

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

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

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

(2) "Prepared food" does not include:

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

(B) eggs, fish, meat, poultry and foods containing these raw animal foods requiring cooking by the consumer as recommended by the United States food and drug administration, in chapter 3, part

401.11 of its food code, so as to prevent foodborne illnesses;

(C) if sold without eating utensils provided by the seller, bakery items, including breads, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies and tortillas; or

(D) food sold by a seller whose primary North American industry classification system, United States, 2002 edition, classification is manufacturing in sector 311, except subsector 3118.

(III) "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. "Soft drinks" does not include beverages that contain milk or milk products; soy, rice or similar milk substitutes; or greater than 50% of vegetable or fruit juice by volume.

(mmm) "Dietary supplement" shall have the same meaning ascribed to it as in K.S.A. 79-3606(jjj), and amendments thereto.

Sec. 23. K.S.A. 2014 Supp. 79-3695 is hereby amended to read as follows: 79-3695. If any contractor has entered into a written binding contract prior to May 1, ~~2010~~ 2015, for the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a building, facility or residential structure, or for the construction, reconstruction, restoration, replacement or repair of a bridge or highway, the state sales tax applicable to such contracts shall be remitted at the rate in effect prior to the state sales tax increase scheduled to take effect on July 1, ~~2010~~ 2015, if the contractor gives notice and proof of such contract to the director of taxation on or before July 10, ~~2010~~ 2015, which notice and proof shall be in such form and of such sufficiency as the director shall prescribe.";

Also on page 109, in line 33, after "91," by inserting "79-32,110,"; also in line 33, after "79-32,117," by inserting "79-32,120,"; also in line 33, after "79-32,265," by inserting "79-32,269, 79-32,270, 79-3301, 79-3310, 79-3310c, 79-3311, 79-3312, 79-3316, 79-3334, 79-3602,"; in line 35, after "79-3620," by inserting "79-3695,";

And by renumbering sections accordingly;

On page 1, in the title, in line 13, after "tax," by inserting "rates, subtraction modifications, itemized deductions,"; in line 16, after "rates," by inserting "food,"; also in line 16, after "thereof;" by inserting "taxation of cigarettes; taxation of electronic cigarettes,"; in line 18, after "91," by inserting "79-32,110,"; also in line 18, after "79-32,117," by inserting "79-32,120,"; also in line 18, after "79-32,265," by inserting "79-32,269, 79-3301, 79-3310, 79-3310c, 79-3311, 79-3312, 79-3316, 79-3334, 79-3602,"; in line 20, after "79-3620," by inserting "79-3695,"; in line 21, after "sections" by inserting "; also repealing K.S.A. 2014 Supp. 79-32,270"

Senator \_\_\_\_\_