

As Amended by House Committee

As Amended by Senate Committee

Session of 2019

SENATE BILL No. 22

By Committee on Federal and State Affairs

1-17

1 AN ACT concerning taxation; relating to income tax~~s~~, addition and
2 subtraction modifications, treatment of deferred foreign income, global
3 intangible low-taxed income, business interest, capital contributions
4 and FDIC premium~~s~~, Kansas itemized deduction, election; **sales and**
5 **compensating use tax, imposition of tax, nexus, remote sellers,**
6 **marketplace facilitators, food and food ingredients, rates;** amending
7 K.S.A. 2018 Supp. 79-32,117, 79-32,120~~and~~, 79-32,138, **79-3602, 79-**
8 **3603, 79-3620, 79-3702, 79-3703 and 79-3710** and repealing the
9 existing sections; **also repealing K.S.A. 2018 Supp. 79-3221o.**

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 2018 Supp. 79-32,117 is hereby amended to read as
13 follows: 79-32,117. (a) The Kansas adjusted gross income of an individual
14 means such individual's federal adjusted gross income for the taxable year,
15 with the modifications specified in this section.

16 (b) There shall be added to federal adjusted gross income:

17 (i) Interest income less any related expenses directly incurred in the
18 purchase of state or political subdivision obligations, to the extent that the
19 same is not included in federal adjusted gross income, on obligations of
20 any state or political subdivision thereof, but to the extent that interest
21 income on obligations of this state or a political subdivision thereof issued
22 prior to January 1, 1988, is specifically exempt from income tax under the
23 laws of this state authorizing the issuance of such obligations, it shall be
24 excluded from computation of Kansas adjusted gross income whether or
25 not included in federal adjusted gross income. Interest income on
26 obligations of this state or a political subdivision thereof issued after
27 December 31, 1987, shall be excluded from computation of Kansas
28 adjusted gross income whether or not included in federal adjusted gross
29 income.

30 (ii) Taxes on or measured by income or fees or payments in lieu of
31 income taxes imposed by this state or any other taxing jurisdiction to the
32 extent deductible in determining federal adjusted gross income and not
33 credited against federal income tax. This paragraph shall not apply to taxes
34 imposed under the provisions of K.S.A. 79-1107 or 79-1108, and

1 amendments thereto, for privilege tax year 1995, and all such years
2 thereafter.

3 (iii) The federal net operating loss deduction, except that the federal
4 net operating loss deduction shall not be added to an individual's federal
5 adjusted gross income for tax years beginning after December 31, 2016.

6 (iv) Federal income tax refunds received by the taxpayer if the
7 deduction of the taxes being refunded resulted in a tax benefit for Kansas
8 income tax purposes during a prior taxable year. Such refunds shall be
9 included in income in the year actually received regardless of the method
10 of accounting used by the taxpayer. For purposes hereof, a tax benefit shall
11 be deemed to have resulted if the amount of the tax had been deducted in
12 determining income subject to a Kansas income tax for a prior year
13 regardless of the rate of taxation applied in such prior year to the Kansas
14 taxable income, but only that portion of the refund shall be included as
15 bears the same proportion to the total refund received as the federal taxes
16 deducted in the year to which such refund is attributable bears to the total
17 federal income taxes paid for such year. For purposes of the foregoing
18 sentence, federal taxes shall be considered to have been deducted only to
19 the extent such deduction does not reduce Kansas taxable income below
20 zero.

21 (v) The amount of any depreciation deduction or business expense
22 deduction claimed on the taxpayer's federal income tax return for any
23 capital expenditure in making any building or facility accessible to the
24 handicapped, for which expenditure the taxpayer claimed the credit
25 allowed by K.S.A. 79-32,177, and amendments thereto.

26 (vi) Any amount of designated employee contributions picked up by
27 an employer pursuant to K.S.A. 12-5005, 20-2603, 74-4919 and 74-4965,
28 and amendments thereto.

29 (vii) The amount of any charitable contribution made to the extent the
30 same is claimed as the basis for the credit allowed pursuant to K.S.A. 79-
31 32,196, and amendments thereto.

32 (viii) The amount of any costs incurred for improvements to a swine
33 facility, claimed for deduction in determining federal adjusted gross
34 income, to the extent the same is claimed as the basis for any credit
35 allowed pursuant to K.S.A. 2018 Supp. 79-32,204, and amendments
36 thereto.

37 (ix) The amount of any ad valorem taxes and assessments paid and
38 the amount of any costs incurred for habitat management or construction
39 and maintenance of improvements on real property, claimed for deduction
40 in determining federal adjusted gross income, to the extent the same is
41 claimed as the basis for any credit allowed pursuant to K.S.A. 79-32,203,
42 and amendments thereto.

43 (x) Amounts received as nonqualified withdrawals, as defined by

1 K.S.A. 2018 Supp. 75-643, and amendments thereto, if, at the time of
2 contribution to a family postsecondary education savings account, such
3 amounts were subtracted from the federal adjusted gross income pursuant
4 to K.S.A. 79-32,117(c)(xv), and amendments thereto, or if such amounts
5 are not already included in the federal adjusted gross income.

6 (xi) The amount of any contribution made to the same extent the
7 same is claimed as the basis for the credit allowed pursuant to K.S.A. 74-
8 50,154, and amendments thereto.

9 (xii) For taxable years commencing after December 31, 2004,
10 amounts received as withdrawals not in accordance with the provisions of
11 K.S.A. 74-50,204, and amendments thereto, if, at the time of contribution
12 to an individual development account, such amounts were subtracted from
13 the federal adjusted gross income pursuant to subsection (c)(xiii), or if
14 such amounts are not already included in the federal adjusted gross
15 income.

16 (xiii) The amount of any expenditures claimed for deduction in
17 determining federal adjusted gross income, to the extent the same is
18 claimed as the basis for any credit allowed pursuant to K.S.A. 2018 Supp.
19 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

20 (xiv) The amount of any amortization deduction claimed in
21 determining federal adjusted gross income to the extent the same is
22 claimed for deduction pursuant to K.S.A. 2018 Supp. 79-32,221, and
23 amendments thereto.

24 (xv) The amount of any expenditures claimed for deduction in
25 determining federal adjusted gross income, to the extent the same is
26 claimed as the basis for any credit allowed pursuant to K.S.A. 2018 Supp.
27 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233
28 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-
29 32,248 or 79-32,251 through 79-32,254, and amendments thereto.

30 (xvi) The amount of any amortization deduction claimed in
31 determining federal adjusted gross income to the extent the same is
32 claimed for deduction pursuant to K.S.A. 2018 Supp. 79-32,227, 79-
33 32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments
34 thereto.

35 (xvii) The amount of any amortization deduction claimed in
36 determining federal adjusted gross income to the extent the same is
37 claimed for deduction pursuant to K.S.A. 2018 Supp. 79-32,256, and
38 amendments thereto.

39 (xviii) For taxable years commencing after December 31, 2006, the
40 amount of any ad valorem or property taxes and assessments paid to a state
41 other than Kansas or local government located in a state other than Kansas
42 by a taxpayer who resides in a state other than Kansas, when the law of
43 such state does not allow a resident of Kansas who earns income in such

1 other state to claim a deduction for ad valorem or property taxes or
2 assessments paid to a political subdivision of the state of Kansas in
3 determining taxable income for income tax purposes in such other state, to
4 the extent that such taxes and assessments are claimed as an itemized
5 deduction for federal income tax purposes.

6 (xix) For taxable years beginning after December 31, 2012, and
7 ending before January 1, 2017, the amount of any: (1) Loss from business
8 as determined under the federal internal revenue code and reported from
9 schedule C and on line 12 of the taxpayer's form 1040 federal individual
10 income tax return; (2) loss from rental real estate, royalties, partnerships, S
11 corporations, except those with wholly owned subsidiaries subject to the
12 Kansas privilege tax, estates, trusts, residual interest in real estate
13 mortgage investment conduits and net farm rental as determined under the
14 federal internal revenue code and reported from schedule E and on line 17
15 of the taxpayer's form 1040 federal individual income tax return; and (3)
16 farm loss as determined under the federal internal revenue code and
17 reported from schedule F and on line 18 of the taxpayer's form 1040
18 federal income tax return; all to the extent deducted or subtracted in
19 determining the taxpayer's federal adjusted gross income. For purposes of
20 this subsection, references to the federal form 1040 and federal schedule
21 C, schedule E, and schedule F, shall be to such form and schedules as they
22 existed for tax year 2011, and as revised thereafter by the internal revenue
23 service.

24 (xx) For taxable years beginning after December 31, 2012, and
25 ending before January 1, 2017, the amount of any deduction for self-
26 employment taxes under section 164(f) of the federal internal revenue
27 code as in effect on January 1, 2012, and amendments thereto, in
28 determining the federal adjusted gross income of an individual taxpayer, to
29 the extent the deduction is attributable to income reported on schedule C,
30 E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income
31 tax return.

32 (xxi) For taxable years beginning after December 31, 2012, and
33 ending before January 1, 2017, the amount of any deduction for pension,
34 profit sharing, and annuity plans of self-employed individuals under
35 section 62(a)(6) of the federal internal revenue code as in effect on January
36 1, 2012, and amendments thereto, in determining the federal adjusted gross
37 income of an individual taxpayer.

38 (xxii) For taxable years beginning after December 31, 2012, and
39 ending before January 1, 2017, the amount of any deduction for health
40 insurance under section 162(l) of the federal internal revenue code as in
41 effect on January 1, 2012, and amendments thereto, in determining the
42 federal adjusted gross income of an individual taxpayer.

43 (xxiii) For taxable years beginning after December 31, 2012, and

1 ending before January 1, 2017, the amount of any deduction for domestic
2 production activities under section 199 of the federal internal revenue code
3 as in effect on January 1, 2012, and amendments thereto, in determining
4 the federal adjusted gross income of an individual taxpayer.

5 (xxiv) For taxable years commencing after December 31, 2013, that
6 portion of the amount of any expenditure deduction claimed in
7 determining federal adjusted gross income for expenses paid for medical
8 care of the taxpayer or the taxpayer's spouse or dependents when such
9 expenses were paid or incurred for an abortion, or for a health benefit plan,
10 as defined in K.S.A. 65-6731, and amendments thereto, for the purchase of
11 an optional rider for coverage of abortion in accordance with K.S.A. 2018
12 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and
13 assessments are claimed as an itemized deduction for federal income tax
14 purposes.

15 (xxv) For taxable years commencing after December 31, 2013, that
16 portion of the amount of any expenditure deduction claimed in
17 determining federal adjusted gross income for expenses paid by a taxpayer
18 for health care when such expenses were paid or incurred for abortion
19 coverage, a health benefit plan, as defined in K.S.A. 65-6731, and
20 amendments thereto, when such expenses were paid or incurred for
21 abortion coverage or amounts contributed to health savings accounts for
22 such taxpayer's employees for the purchase of an optional rider for
23 coverage of abortion in accordance with K.S.A. 2018 Supp. 40-2,190, and
24 amendments thereto, to the extent that such taxes and assessments are
25 claimed as a deduction for federal income tax purposes.

26 (xxvi) For all taxable years beginning after December 31, 2016, the
27 amount of any charitable contribution made to the extent the same is
28 claimed as the basis for the credit allowed pursuant to K.S.A. 72-99a07,
29 and amendments thereto, and is also claimed as an itemized deduction for
30 federal income tax purposes.

31 (xxvii) *For all taxable years commencing after December 31, 2016,*
32 *the amount of any deduction claimed under section 965(c) of the federal*
33 *internal revenue code of 1986, in determining federal adjusted gross*
34 *income.*

35 (xxviii) *For all taxable years commencing after December 31, 2017,*
36 *the amount of any deduction claimed under section 250(a)(1)(B) of the*
37 *federal internal revenue code of 1986, in determining federal adjusted*
38 *gross income.*

39 (xxiv) *For all taxable years commencing after December 31, 2017,*
40 *the amount deducted by reason of a carry forward of disallowed business*
41 *interest pursuant to section 163(j) of the federal internal revenue code of*
42 *1986, as in effect on January 1, 2018.*

43 (c) There shall be subtracted from federal adjusted gross income:

1 (i) Interest or dividend income on obligations or securities of any
2 authority, commission or instrumentality of the United States and its
3 possessions less any related expenses directly incurred in the purchase of
4 such obligations or securities, to the extent included in federal adjusted
5 gross income but exempt from state income taxes under the laws of the
6 United States.

7 (ii) Any amounts received which are included in federal adjusted
8 gross income but which are specifically exempt from Kansas income
9 taxation under the laws of the state of Kansas.

10 (iii) The portion of any gain or loss from the sale or other disposition
11 of property having a higher adjusted basis for Kansas income tax purposes
12 than for federal income tax purposes on the date such property was sold or
13 disposed of in a transaction in which gain or loss was recognized for
14 purposes of federal income tax that does not exceed such difference in
15 basis, but if a gain is considered a long-term capital gain for federal
16 income tax purposes, the modification shall be limited to that portion of
17 such gain which is included in federal adjusted gross income.

18 (iv) The amount necessary to prevent the taxation under this act of
19 any annuity or other amount of income or gain which was properly
20 included in income or gain and was taxed under the laws of this state for a
21 taxable year prior to the effective date of this act, as amended, to the
22 taxpayer, or to a decedent by reason of whose death the taxpayer acquired
23 the right to receive the income or gain, or to a trust or estate from which
24 the taxpayer received the income or gain.

25 (v) The amount of any refund or credit for overpayment of taxes on
26 or measured by income or fees or payments in lieu of income taxes
27 imposed by this state, or any taxing jurisdiction, to the extent included in
28 gross income for federal income tax purposes.

29 (vi) Accumulation distributions received by a taxpayer as a
30 beneficiary of a trust to the extent that the same are included in federal
31 adjusted gross income.

32 (vii) Amounts received as annuities under the federal civil service
33 retirement system from the civil service retirement and disability fund and
34 other amounts received as retirement benefits in whatever form which
35 were earned for being employed by the federal government or for service
36 in the armed forces of the United States.

37 (viii) Amounts received by retired railroad employees as a
38 supplemental annuity under the provisions of 45 U.S.C. §§ 228b (a) and
39 228c (a)(1) et seq.

40 (ix) Amounts received by retired employees of a city and by retired
41 employees of any board of such city as retirement allowances pursuant to
42 K.S.A. 13-14,106, and amendments thereto, or pursuant to any charter
43 ordinance exempting a city from the provisions of K.S.A. 13-14,106, and

1 amendments thereto.

2 (x) For taxable years beginning after December 31, 1976, the amount
3 of the federal tentative jobs tax credit disallowance under the provisions of
4 26 U.S.C. § 280 C. For taxable years ending after December 31, 1978, the
5 amount of the targeted jobs tax credit and work incentive credit
6 disallowances under 26 U.S.C. § 280 C.

7 (xi) For taxable years beginning after December 31, 1986, dividend
8 income on stock issued by Kansas venture capital, inc.

9 (xii) For taxable years beginning after December 31, 1989, amounts
10 received by retired employees of a board of public utilities as pension and
11 retirement benefits pursuant to K.S.A. 13-1246, 13-1246a and 13-1249,
12 and amendments thereto.

13 (xiii) For taxable years beginning after December 31, 2004, amounts
14 contributed to and the amount of income earned on contributions deposited
15 to an individual development account under K.S.A. 74-50,201 et seq., and
16 amendments thereto.

17 (xiv) For all taxable years commencing after December 31, 1996, that
18 portion of any income of a bank organized under the laws of this state or
19 any other state, a national banking association organized under the laws of
20 the United States, an association organized under the savings and loan
21 code of this state or any other state, or a federal savings association
22 organized under the laws of the United States, for which an election as an
23 S corporation under subchapter S of the federal internal revenue code is in
24 effect, which accrues to the taxpayer who is a stockholder of such
25 corporation and which is not distributed to the stockholders as dividends of
26 the corporation. For taxable years beginning after December 31, 2012, and
27 ending before January 1, 2017, the amount of modification under this
28 subsection shall exclude the portion of income or loss reported on schedule
29 E and included on line 17 of the taxpayer's form 1040 federal individual
30 income tax return.

31 (xv) For all taxable years beginning after December 31, 2006,
32 amounts not exceeding \$3,000, or \$6,000 for a married couple filing a
33 joint return, for each designated beneficiary which are contributed to a
34 family postsecondary education savings account established under the
35 Kansas postsecondary education savings program or a qualified tuition
36 program established and maintained by another state or agency or
37 instrumentality thereof pursuant to section 529 of the internal revenue
38 code of 1986, as amended, for the purpose of paying the qualified higher
39 education expenses of a designated beneficiary at an institution of
40 postsecondary education. The terms and phrases used in this paragraph
41 shall have the meaning respectively ascribed thereto by the provisions of
42 K.S.A. 2018 Supp. 75-643, and amendments thereto, and the provisions of
43 such section are hereby incorporated by reference for all purposes thereof.

1 (xvi) For all taxable years beginning after December 31, 2004,
2 amounts received by taxpayers who are or were members of the armed
3 forces of the United States, including service in the Kansas army and air
4 national guard, as a recruitment, sign up or retention bonus received by
5 such taxpayer as an incentive to join, enlist or remain in the armed services
6 of the United States, including service in the Kansas army and air national
7 guard, and amounts received for repayment of educational or student loans
8 incurred by or obligated to such taxpayer and received by such taxpayer as
9 a result of such taxpayer's service in the armed forces of the United States,
10 including service in the Kansas army and air national guard.

11 (xvii) For all taxable years beginning after December 31, 2004,
12 amounts received by taxpayers who are eligible members of the Kansas
13 army and air national guard as a reimbursement pursuant to K.S.A. 48-
14 281, and amendments thereto, and amounts received for death benefits
15 pursuant to K.S.A. 48-282, and amendments thereto, or pursuant to section
16 1 or section 2 of chapter 207 of the 2005 Session Laws of Kansas, and
17 amendments thereto, to the extent that such death benefits are included in
18 federal adjusted gross income of the taxpayer.

19 (xviii) For the taxable year beginning after December 31, 2006,
20 amounts received as benefits under the federal social security act which
21 are included in federal adjusted gross income of a taxpayer with federal
22 adjusted gross income of \$50,000 or less, whether such taxpayer's filing
23 status is single, head of household, married filing separate or married filing
24 jointly; and for all taxable years beginning after December 31, 2007,
25 amounts received as benefits under the federal social security act which
26 are included in federal adjusted gross income of a taxpayer with federal
27 adjusted gross income of \$75,000 or less, whether such taxpayer's filing
28 status is single, head of household, married filing separate or married filing
29 jointly.

30 (xix) Amounts received by retired employees of Washburn university
31 as retirement and pension benefits under the university's retirement plan.

32 (xx) For taxable years beginning after December 31, 2012, and
33 ending before January 1, 2017, the amount of any: (1) Net profit from
34 business as determined under the federal internal revenue code and
35 reported from schedule C and on line 12 of the taxpayer's form 1040
36 federal individual income tax return; (2) net income, not including
37 guaranteed payments as defined in section 707(c) of the federal internal
38 revenue code and as reported to the taxpayer from federal schedule K-1,
39 (form 1065-B), in box 9, code F or as reported to the taxpayer from federal
40 schedule K-1, (form 1065) in box 4, from rental real estate, royalties,
41 partnerships, S corporations, estates, trusts, residual interest in real estate
42 mortgage investment conduits and net farm rental as determined under the
43 federal internal revenue code and reported from schedule E and on line 17

1 of the taxpayer's form 1040 federal individual income tax return; and (3)
2 net farm profit as determined under the federal internal revenue code and
3 reported from schedule F and on line 18 of the taxpayer's form 1040
4 federal income tax return; all to the extent included in the taxpayer's
5 federal adjusted gross income. For purposes of this subsection, references
6 to the federal form 1040 and federal schedule C, schedule E, and schedule
7 F, shall be to such form and schedules as they existed for tax year 2011
8 and as revised thereafter by the internal revenue service.

9 (xxi) For all taxable years beginning after December 31, 2013,
10 amounts equal to the unreimbursed travel, lodging and medical
11 expenditures directly incurred by a taxpayer while living, or a dependent
12 of the taxpayer while living, for the donation of one or more human organs
13 of the taxpayer, or a dependent of the taxpayer, to another person for
14 human organ transplantation. The expenses may be claimed as a
15 subtraction modification provided for in this section to the extent the
16 expenses are not already subtracted from the taxpayer's federal adjusted
17 gross income. In no circumstances shall the subtraction modification
18 provided for in this section for any individual, or a dependent, exceed
19 \$5,000. As used in this section, "human organ" means all or part of a liver,
20 pancreas, kidney, intestine, lung or bone marrow. The provisions of this
21 paragraph shall take effect on the day the secretary of revenue certifies to
22 the director of the budget that the cost for the department of revenue of
23 modifications to the automated tax system for the purpose of
24 implementing this paragraph will not exceed \$20,000.

25 (xxii) For taxable years beginning after December 31, 2012, and
26 ending before January 1, 2017, the amount of net gain from the sale of: (1)
27 Cattle and horses, regardless of age, held by the taxpayer for draft,
28 breeding, dairy or sporting purposes, and held by such taxpayer for 24
29 months or more from the date of acquisition; and (2) other livestock,
30 regardless of age, held by the taxpayer for draft, breeding, dairy or
31 sporting purposes, and held by such taxpayer for 12 months or more from
32 the date of acquisition. The subtraction from federal adjusted gross income
33 shall be limited to the amount of the additions recognized under the
34 provisions of subsection (b)(xix) attributable to the business in which the
35 livestock sold had been used. As used in this paragraph, the term
36 "livestock" shall not include poultry.

37 (xxiii) For all taxable years beginning after December 31, 2012,
38 amounts received under either the Overland Park, Kansas police
39 department retirement plan or the Overland Park, Kansas fire department
40 retirement plan, both as established by the city of Overland Park, pursuant
41 to the city's home rule authority.

42 (xxiv) For taxable years beginning after December 31, 2013, and
43 ending before January 1, 2017, the net gain from the sale from Christmas

1 trees grown in Kansas and held by the taxpayer for six years or more.

2 (xxv) *For all taxable years commencing after December 31, 2016,*
3 ~~100% of deferred foreign income as used in determining federal adjusted~~
4 ~~gross income. Deferred foreign income shall include income under section~~
5 ~~965(a) of the federal internal revenue code of 1986, before any deductions~~
6 ~~allowed under section 965(c) of the code.~~

7 (xxvi) *For all taxable years commencing after December 31, 2017,*
8 ~~100% of global intangible low-taxed income. Global intangible low-taxed~~
9 ~~income shall include income under section 951A of the federal internal~~
10 ~~revenue code of 1986, before any deductions allowed under section 250(a)~~
11 ~~(1)(B) of the code.~~

12 (xxvii) *For all taxable years commencing after December 31, 2017,*
13 ~~the amount disallowed as a deduction pursuant to section 163(j) of the~~
14 ~~federal internal revenue code of 1986, as in effect on January 1, 2018.~~

15 (d) There shall be added to or subtracted from federal adjusted gross
16 income the taxpayer's share, as beneficiary of an estate or trust, of the
17 Kansas fiduciary adjustment determined under K.S.A. 79-32,135, and
18 amendments thereto.

19 (e) The amount of modifications required to be made under this
20 section by a partner which relates to items of income, gain, loss, deduction
21 or credit of a partnership shall be determined under K.S.A. 79-32,131, and
22 amendments thereto, to the extent that such items affect federal adjusted
23 gross income of the partner.

24 (f) No taxpayer shall be assessed penalties and interest from the
25 underpayment of taxes due to changes to this section that became law on
26 July 1, 2017, so long as such underpayment is rectified on or before April
27 17, 2018.

28 (g) ~~A taxpayer may file an amended return, as provided by law, for a~~
29 ~~prior tax year due to any changes to this section that became law on July~~
30 ~~1, 2019. Any changes to this section that became law on July 1, 2019,~~
31 ~~shall be applied retroactively to the dates indicated in those subsections.~~

32 Sec. 2. K.S.A. 2018 Supp. 79-32,120 is hereby amended to read as
33 follows: 79-32,120. (a) (1) *For all tax years prior to tax year 2018, if*
34 *federal taxable income of an individual is determined by itemizing*
35 *deductions from such individual's federal adjusted gross income, such*
36 *individual may elect to deduct the Kansas itemized deduction in lieu of the*
37 *Kansas standard deduction. For tax year 2018, and all tax years thereafter,*
38 *an individual may elect to deduct the Kansas itemized deduction in lieu of*
39 *the Kansas standard deduction regardless of whether or not such*
40 *individual's federal taxable income is determined by itemizing deductions*
41 *from such individual's federal adjusted gross income.*

42 (2) ~~For the tax year commencing on January 1, 2013, the Kansas~~
43 ~~itemized deduction of an individual means 70% of the total amount of~~

1 ~~deductions from federal adjusted gross income, other than federal~~
2 ~~deductions for personal exemptions, as provided in the federal internal~~
3 ~~revenue code with the modifications specified in this section.~~

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

9 ~~(4) For the tax years commencing on and after January 1, 2015, and~~
10 ~~ending before January 1, 2018, the Kansas itemized deduction of an~~
11 ~~individual means the following deductions from federal adjusted gross~~
12 ~~income, other than federal deductions for personal exemptions, as~~
13 ~~provided in the federal internal revenue code with the modifications~~
14 ~~specified in this section: (A) 100% of charitable contributions that qualify~~
15 ~~as charitable contributions allowable as deductions in section 170 of the~~
16 ~~federal internal revenue code; (B) 50% of the amount of qualified~~
17 ~~residence interest as provided in section 163(h) of the federal internal~~
18 ~~revenue code; and (C) 50% of the amount of taxes on real and personal~~
19 ~~property as provided in section 164(a) of the federal internal revenue code.~~

20 ~~(5)(3) For the tax year commencing on and after January 1, 2018, and~~
21 ~~ending before January 1, 2019, the Kansas itemized deduction of an~~
22 ~~individual means the following deductions from federal adjusted gross~~
23 ~~income, other than federal deductions for personal exemptions, as~~
24 ~~provided in the federal internal revenue code with the modifications~~
25 ~~specified in this section: (A) 100% of charitable contributions that qualify~~
26 ~~as charitable contributions allowable as deductions in section 170 of the~~
27 ~~federal internal revenue code; (B) 50% of expenses for medical care~~
28 ~~allowable as deductions in section 213 of the federal internal revenue~~
29 ~~code; (C) 50% of the amount of qualified residence interest as provided in~~
30 ~~section 163(h) of the federal internal revenue code; and (D) 50% of the~~
31 ~~amount of taxes on real and personal property as provided in section~~
32 ~~164(a) of the federal internal revenue code.~~

33 ~~(6)(4) For the tax year commencing on and after January 1, 2019, and~~
34 ~~ending before January 1, 2020, the Kansas itemized deduction of an~~
35 ~~individual means the following deductions from federal adjusted gross~~
36 ~~income, other than federal deductions for personal exemptions, as~~
37 ~~provided in the federal internal revenue code with the modifications~~
38 ~~specified in this section: (A) 100% of charitable contributions that qualify~~
39 ~~as charitable contributions allowable as deductions in section 170 of the~~
40 ~~federal internal revenue code; (B) 75% of expenses for medical care~~
41 ~~allowable as deductions in section 213 of the federal internal revenue~~
42 ~~code; (C) 75% of the amount of qualified residence interest as provided in~~
43 ~~section 163(h) of the federal internal revenue code; and (D) 75% of the~~

1 amount of taxes on real and personal property as provided in section
2 164(a) of the federal internal revenue code.

3 ~~(7)~~(5) For the tax years commencing on and after January 1, 2020, the
4 Kansas itemized deduction of an individual means the following
5 deductions from federal adjusted gross income, other than federal
6 deductions for personal exemptions, as provided in the federal internal
7 revenue code with the modifications specified in this section: (A) 100% of
8 charitable contributions that qualify as charitable contributions allowable
9 as deductions in section 170 of the federal internal revenue code; (B)
10 100% of expenses for medical care allowable as deductions in section 213
11 of the federal internal revenue code; (C) 100% of the amount of qualified
12 residence interest as provided in section 163(h) of the federal internal
13 revenue code; and (D) 100% of the amount of taxes on real and personal
14 property as provided in section 164(a) of the federal internal revenue code.

15 (b) The total amount of deductions from federal adjusted gross
16 income shall be reduced by the total amount of income taxes imposed by
17 or paid to this state or any other taxing jurisdiction to the extent that the
18 same are deducted in determining the federal itemized deductions and by
19 the amount of all depreciation deductions claimed for any real or tangible
20 personal property upon which the deduction allowed by K.S.A. 2018
21 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250,
22 79-32,255 or 79-32,256, and amendments thereto, is or has been claimed.

23 (c) *A taxpayer may file an amended return on or before December*
24 *31, 2019, in order to elect to deduct the Kansas itemized deduction in lieu*
25 *of the Kansas standard deduction pursuant to subsection (a)(1) for tax*
26 *year 2018.*

27 Sec. 3. K.S.A. 2018 Supp. 79-32,138 is hereby amended to read as
28 follows: 79-32,138. (a) Kansas taxable income of a corporation taxable
29 under this act shall be the corporation's federal taxable income for the
30 taxable year with the modifications specified in this section, *except that in*
31 *determination of such federal taxable income for all taxable years*
32 *commencing after December 31, 2017, section 118 of the federal internal*
33 *revenue code of 1986 will be applied as in effect on December 21, 2017.*

34 (b) There shall be added to federal taxable income: (i) The same
35 modifications as are set forth in K.S.A. 79-32,117(b), and amendments
36 thereto, with respect to resident individuals, except subsections (b)(xix),
37 (b)(xx), (b)(xxi), (b)(xxii) and (b)(xxiii);

38 (ii) the amount of all depreciation deductions claimed for any
39 property upon which the deduction allowed by K.S.A. 2018 Supp. 79-
40 32,221, 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250, 79-
41 32,255 or 79-32,256, and amendments thereto, is claimed;

42 (iii) the amount of any charitable contribution deduction claimed for
43 any contribution or gift to or for the use of any racially segregated

1 educational institution;

2 (iv) for taxable years commencing December 31, 2013, that portion
3 of the amount of any expenditure deduction claimed in determining federal
4 adjusted gross income for expenses paid by a taxpayer for health care
5 when such expenses were paid or incurred for abortion coverage, a health
6 benefit plan, as defined in K.S.A. 65-6731, and amendments thereto, when
7 such expenses were paid or incurred for abortion coverage or amounts
8 contributed to health savings accounts for such taxpayer's employees for
9 the purchase of an optional rider for coverage of abortion in accordance
10 with K.S.A. 2018 Supp. 40-2,190, and amendments thereto;

11 (v) the amount of any charitable contribution deduction claimed for
12 any contribution or gift made to a scholarship granting organization to the
13 extent the same is claimed as the basis for the credit allowed pursuant to
14 K.S.A. 72-4357, and amendments thereto; and

15 (vi) the federal net operating loss deduction.

16 (c) There shall be subtracted from federal taxable income: (i) The
17 same modifications as are set forth in K.S.A. 79-32,117(c), and
18 amendments thereto, with respect to resident individuals, except
19 subsection (c)(xx);

20 (ii) the federal income tax liability for any taxable year commencing
21 prior to December 31, 1971, for which a Kansas return was filed after
22 reduction for all credits thereon, except credits for payments on estimates
23 of federal income tax, credits for gasoline and lubricating oil tax, and for
24 foreign tax credits if, on the Kansas income tax return for such prior year,
25 the federal income tax deduction was computed on the basis of the federal
26 income tax paid in such prior year, rather than as accrued. Notwithstanding
27 the foregoing, the deduction for federal income tax liability for any year
28 shall not exceed that portion of the total federal income tax liability for
29 such year which bears the same ratio to the total federal income tax
30 liability for such year as the Kansas taxable income, as computed before
31 any deductions for federal income taxes and after application of
32 subsections (d) and (e) of this section as existing for such year, bears to the
33 federal taxable income for the same year;

34 (iii) an amount for the amortization deduction allowed pursuant to
35 K.S.A. 2018 Supp. 79-32,221, 79-32,227, 79-32,232, 79-32,237, 79-
36 32,249, 79-32,250, 79-32,255 or 79-32,256, and amendments thereto;

37 (iv) for all taxable years commencing after December 31, 1987, the
38 amount included in federal taxable income pursuant to the provisions of
39 section 78 of the internal revenue code; ~~and~~

40 (v) for all taxable years commencing after December 31, 1987, 80%
41 of dividends from corporations incorporated outside of the United States
42 or the District of Columbia which are included in federal taxable income.

43 *This paragraph does not apply to the amounts excluded from income*

1 *pursuant to K.S.A. 79-32,117(c)(xxv) and (c)(xxvi), and amendments*
 2 *thereto, or amounts added back pursuant to K.S.A. 79-32,117(b)(xxvii)*
 3 *and (xxviii), and amendments thereto; and*

4 (vi) *for all taxable years commencing after December 31, 2017, the*
 5 *amount disallowed as a deduction pursuant to section 162(r) of the federal*
 6 *internal revenue code of 1986, as in effect on January 1, 2018.*

7 (d) If any corporation derives all of its income from sources within
 8 Kansas in any taxable year commencing after December 31, 1979, its
 9 Kansas taxable income shall be the sum resulting after application of
 10 subsections (a) through (c) hereof. Otherwise, such corporation's Kansas
 11 taxable income in any such taxable year, after excluding any refunds of
 12 federal income tax and before the deduction of federal income taxes
 13 provided by subsection (c)(ii) shall be allocated as provided in K.S.A. 79-
 14 3271 to K.S.A. 79-3293, inclusive, and amendments thereto, plus any
 15 refund of federal income tax as determined under K.S.A. 79-32,117(b)(iv),
 16 and amendments thereto, and minus the deduction for federal income taxes
 17 as provided by subsection (c)(ii) shall be such corporation's Kansas taxable
 18 income.

19 (e) A corporation may make an election with respect to its first
 20 taxable year commencing after December 31, 1982, whereby no addition
 21 modifications as provided for in subsection (b)(ii) and subtraction
 22 modifications as provided for in subsection (c)(iii) as those subsections
 23 existed prior to their amendment by this act, shall be required to be made
 24 for such taxable year.

25 (f) *A taxpayer may file an amended return, as provided by law, for a*
 26 *prior tax year due to any changes to this section that became law on July*
 27 *1, 2019. Any changes to this section that became law on July 1, 2019,*
 28 *shall be applied retroactively to the dates indicated in those subsections.*

29 **New Sec. 4. Sections 4 through 12, and amendments thereto, shall**
 30 **be known and may be cited as the Kansas main street parity act.**

31 **New Sec. 5. As used in the Kansas main street parity act:**

32 (a) **"Act" means the Kansas main street parity act.**

33 (b) **"Affiliated person" means a person that, with respect to**
 34 **another person: (1) Has an ownership interest of more than 5%,**
 35 **whether direct or indirect, in the other person; or (2) is related to the**
 36 **other person because a third person, or group of third persons who**
 37 **are affiliated persons with respect to each other, holds an ownership**
 38 **interest of more than 5%, whether direct or indirect, in the related**
 39 **persons.**

40 (c) **"Cumulative gross receipts" means gross receipts as defined**
 41 **in K.S.A. 79-3602, and amendments thereto, and includes the gross**
 42 **receipts received by the marketplace facilitator from its own direct**
 43 **sales combined with the gross receipts received from sales it facilitates**

1 for sellers or marketplace sellers.

2 (d) "Department" means the Kansas department of revenue.

3 (e) "Marketplace facilitator" means a person that, pursuant to an
4 agreement with a marketplace seller, facilitates sales by such
5 marketplace seller through a physical or electronic marketplace
6 operated by the person, and engages:

7 (1) Directly or indirectly, through one or more affiliated persons
8 in any of the following:

9 (A) Transmitting or otherwise communicating the offer or
10 acceptance between a buyer and marketplace seller;

11 (B) owning or operating the infrastructure, electronic or physical,
12 or technology that brings buyers and marketplace sellers together;

13 (C) providing a virtual currency that buyers are allowed or
14 required to use to purchase products from the marketplace seller; or

15 (D) software development or research and development activities
16 related to any of the activities described in this subsection, if such
17 activities are directly related to a physical or electronic marketplace
18 operated by the person or an affiliated person; and

19 (2) engages in any of the following activities with respect to the
20 marketplace seller's products:

21 (A) Payment processing services;

22 (B) fulfillment, delivery or storage services;

23 (C) listing products for sale;

24 (D) setting prices;

25 (E) branding sales as those of the marketplace facilitator;

26 (F) order taking;

27 (G) advertising or promotion; or

28 (H) providing customer service or accepting or assisting with
29 returns or exchanges.

30 A "marketplace facilitator" does not include a platform or forum
31 that exclusively provides internet advertising services, including listing
32 products for sale, so long as the internet advertising service platform
33 or forum does not also engage directly or indirectly through one or
34 more affiliated persons in the activities described in subsection (e).

35 A person is not a "marketplace facilitator" with respect to the sale
36 or charges for rooms, lodgings or accommodations provided by a
37 hotel, motel, inn or other place that provides the rooms, lodgings or
38 accommodations for occupancy.

39 (f) "Marketplace seller" means a seller that makes retail sales
40 through any physical or electronic marketplaces operated by a
41 marketplace facilitator regardless of whether the seller is required to
42 be registered with the department.

43 (g) "Platform" means an electronic or physical medium,

1 including a website or catalog, operated by a referrer.

2 (h) "Referral" means the transfer by a referrer of a potential
3 customer to a seller or marketplace seller that advertises or lists
4 products for sale on the referrer's platform.

5 (i) "Referrer" means a person, other than a person engaging in
6 the business of printing a newspaper or publishing a newspaper, who
7 contracts or otherwise agrees with a seller or marketplace seller to list
8 or advertise for sale one or more items in any medium, including a
9 website or catalog; receives a commission, fee or other consideration
10 from the seller for the listing or advertisement; transfers, via
11 telephone, internet link, or other means, a purchaser to a seller,
12 marketplace seller or an affiliated person to complete the sale; and
13 does not collect receipts from the purchasers for the transaction.

14 "Referrer" does not include a person that:

15 (1) Provides internet advertising services; and

16 (2) does not ever provide either the seller's or marketplace seller's
17 shipping terms or advertise whether the seller or marketplace seller
18 charges sales tax.

19 (j) "Sale" or "sales" shall have the same meaning as defined in
20 K.S.A. 79-3602(kk), and amendments thereto, whether or not such
21 sales qualify for a sales tax exemption.

22 (k) "Seller" shall have the same meaning as defined in K.S.A. 79-
23 3602(mm), and amendments thereto, and includes marketplace
24 facilitators, whether making sales in the seller's own right or on behalf
25 of marketplace sellers.

26 (l) "Tax" means the sales tax imposed under K.S.A. 79-3603, and
27 amendments thereto, or the use tax imposed under K.S.A. 79-3703,
28 and amendments thereto.

29 (m) "Transaction" means a sale of tangible personal property or
30 a service by a marketplace seller including, but not limited to, all such
31 marketplace seller's transactions for tangible personal property or a
32 service, however consummated, including transactions completed on a
33 website operated by:

34 (1) The marketplace seller;

35 (2) an affiliated person; or

36 (3) a contract party, including a marketplace facilitator.

37 (n) The meaning ascribed to words and phrases in K.S.A. 79-
38 3602, and amendments thereto, insofar as practicable, shall be
39 applicable herein unless otherwise provided.

40 New Sec. 6. (a) On and after October 1, 2019, any marketplace
41 facilitator that meets the criteria in subsection (b) or that has a
42 physical presence in this state, must collect and remit retail sales or
43 use tax on all taxable retail sales made or facilitated by the

1 marketplace facilitator into this state pursuant to this act.
2 Marketplace facilitators must begin collecting state and local retail
3 sales or use taxes on taxable retail sales made or facilitated by the
4 marketplace facilitator sourced to this state beginning on the first day
5 of the next calendar month that is at least 30 days from the date that
6 the marketplace facilitator met the threshold described in subsection
7 (b).

8 (b) A marketplace facilitator is subject to subsection (a) if:

9 (1) (A) For calendar year 2018, the marketplace facilitator had in
10 excess of \$100,000 of cumulative gross receipts from retail sales
11 sourced to this state;

12 (B) for the period beginning on January 1, 2019, through
13 September 30, 2019, the marketplace facilitator had in excess of
14 \$100,000 of cumulative gross receipts from retail sales sourced to this
15 state; or

16 (C) during the current or immediately preceding calendar year,
17 the marketplace facilitator had in excess of \$100,000 of cumulative
18 gross receipts from retail sales sourced to this state.

19 (2) (A) For any marketplace facilitator who satisfies the
20 provisions of subsection (b)(1), such retailer shall not be required to
21 collect and remit any taxes from sales occurring prior to October 1,
22 2019.

23 (B) For any marketplace facilitator who satisfies the provisions of
24 subsection (b)(1)(C) for sales in the current calendar year for the first
25 time, such marketplace facilitator shall be required to collect and
26 remit the tax on any sales in excess of the \$100,000 of cumulative gross
27 receipts from sales in the current calendar year by the marketplace
28 facilitator to customers in this state.

29 **New Sec. 7. (a)** In addition to other applicable recordkeeping
30 requirements, the department may require a marketplace facilitator
31 or referrer to provide or make available to the department any
32 information the department determines is reasonably necessary to
33 enforce the provisions of this act, the Kansas retailers' sales tax act
34 and the Kansas compensating tax act. Such information may include
35 documentation of sales made by marketplace sellers through the
36 marketplace facilitator's physical or electronic marketplace. The
37 department may prescribe by rules and regulations the form and
38 manner for providing this information.

39 (b) A marketplace facilitator is relieved of liability under this act
40 for failure to collect the correct amount of tax to the extent that the
41 marketplace facilitator can show to the department's satisfaction that
42 the error was due to incorrect information given to the marketplace
43 facilitator by the marketplace seller, unless the marketplace facilitator

1 and marketplace seller are affiliated persons. When the marketplace
2 facilitator is relieved of liability under this subsection, the marketplace
3 seller is solely liable for the amount of uncollected tax due.

4 (c) Except as otherwise provided in this section, a marketplace
5 seller obligated to collect the taxes imposed under this act is not
6 required to collect such taxes on all taxable retail sales through a
7 marketplace operated by a marketplace facilitator if the marketplace
8 seller entered into an agreement with the marketplace facilitator
9 indicating that the marketplace facilitator is registered with the
10 department and will collect all applicable taxes due under this act, the
11 Kansas retailers' sales tax act or the Kansas compensating tax act on
12 all taxable retail sales made on behalf of the marketplace seller
13 through the marketplace operated by the marketplace facilitator. This
14 subsection does not relieve a marketplace seller from liability for
15 uncollected taxes due under this act, the Kansas retailers' sales tax act
16 or the Kansas compensating tax act resulting from a marketplace
17 facilitator's failure to collect the proper amount of tax due when the
18 error was due to incorrect information given to the marketplace
19 facilitator by the marketplace seller.

20 (d) No class action may be brought against a marketplace
21 facilitator in any court of this state on behalf of purchasers arising
22 from or in any way related to an overpayment of sales or use tax
23 collected by the marketplace facilitator or referrer, regardless of
24 whether that claim is characterized as a tax refund claim. Nothing in
25 this subsection affects a purchaser's right to seek a refund from the
26 department as provided by the Kansas retailers' sales tax act.

27 New Sec. 8. (a) Except as otherwise provided in this act, taxes
28 imposed under the Kansas retailers' sales tax act or the Kansas
29 compensating tax act and payable by a consumer directly to the
30 department are due, on returns prescribed by the department, as
31 prescribed by those acts.

32 (b) Nothing in this act affects the obligation of any purchaser
33 from this state to remit retail sales or use tax as to any applicable
34 taxable transaction in which the seller does not collect and remit retail
35 sales or use tax.

36 New Sec. 9. (a) A marketplace facilitator that is subject to section
37 6, and amendments thereto, and is complying with the requirements of
38 the Kansas retailers' sales tax act or the Kansas compensating tax act
39 may only seek a recovery of retail sales and use taxes, penalties or
40 interest from the department by following the recovery procedures
41 established under the Kansas retailers' sales tax act. However, no
42 claim may be granted on the basis that the taxpayer lacked a physical
43 presence in this state and complied with the tax collection provisions

1 of the Kansas retailers' sales tax act or the Kansas compensating tax
2 act voluntarily.

3 (b) Neither the state nor any marketplace facilitator who collects
4 and remits retail sales or use tax under section 6, and amendments
5 thereto, is liable to a purchaser that claims that the retail sales or use
6 tax has been over-collected because a provision of this act is later
7 deemed unlawful.

8 New Sec. 10. Except as otherwise provided in this act, the
9 provisions of K.S.A. 79-3601 through 79-3696, and amendments
10 thereto, relating to enforcement, collection and administration, insofar
11 as practicable, shall have full force and effect with respect to taxes
12 imposed under the provisions of the Kansas main street parity act.

13 New Sec. 11. The secretary of revenue shall adopt such rules and
14 regulations as deemed necessary for the administration of this act.

15 New Sec. 12. If any provision of the Kansas main street parity act
16 or the application thereof to any person or circumstance is held
17 invalid, the invalidity shall not affect other provisions or applications
18 of the act that can be given effect without the invalid provision or
19 application, and to this end the provisions of this act are severable.

20 New Sec. 13. (a) There is hereby levied and there shall be
21 collected and paid a tax upon the gross receipts from the sale of food
22 and food ingredients. Commencing on October 1, 2019, the rate of tax
23 shall be 5.5%.

24 (b) The provisions of this section shall not apply to prepared food,
25 unless sold without eating utensils provided by the seller and
26 described below:

27 (1) Food sold by a seller whose proper primary NAICS
28 classification is manufacturing in sector 311, except subsector 3118
29 (bakeries);

30 (2) (A) food sold in an unheated state by weight or volume as a
31 single item; or

32 (B) only meat or seafood sold in an unheated state by weight or
33 volume as a single item;

34 (3) bakery items, including bread, rolls, buns, biscuits, bagels,
35 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins,
36 bars, cookies and tortillas;

37 (4) food sold that ordinarily requires additional cooking, as
38 opposed to just reheating, by the consumer prior to consumption; or

39 (5) bottled water that is not otherwise sold as prepared food.

40 (c) The provisions of this section shall be a part of and
41 supplemental to the Kansas retailers' sales tax act.

42 Sec. 14. K.S.A. 2018 Supp. 79-3602 is hereby amended to read as
43 follows: 79-3602. Except as otherwise provided, as used in the Kansas

1 retailers' sales tax act:

- 2 (a) "Agent" means a person appointed by a seller to represent the
3 seller before the member states.
- 4 (b) "Agreement" means the multistate agreement entitled the
5 streamlined sales and use tax agreement approved by the streamlined
6 sales tax implementing states at Chicago, Illinois on November 12,
7 2002.
- 8 (c) "Alcoholic beverages" means beverages that are suitable for
9 human consumption and contain 0.05% or more of alcohol by volume.
- 10 (d) "Certified automated system (CAS)" means software certified
11 under the agreement to calculate the tax imposed by each jurisdiction
12 on a transaction, determine the amount of tax to remit to the
13 appropriate state and maintain a record of the transaction.
- 14 (e) "Certified service provider (CSP)" means an agent certified
15 under the agreement to perform all the seller's sales and use tax
16 functions, other than the seller's obligation to remit tax on its own
17 purchases.
- 18 (f) "Computer" means an electronic device that accepts
19 information in digital or similar form and manipulates it for a result
20 based on a sequence of instructions.
- 21 (g) "Computer software" means a set of coded instructions
22 designed to cause a computer or automatic data processing equipment
23 to perform a task.
- 24 (h) "Delivered electronically" means delivered to the purchaser
25 by means other than tangible storage media.
- 26 (i) "Delivery charges" means charges by the seller of personal
27 property or services for preparation and delivery to a location
28 designated by the purchaser of personal property or services
29 including, but not limited to, transportation, shipping, postage,
30 handling, crating and packing. Delivery charges shall not include
31 charges for delivery of direct mail if the charges are separately stated
32 on an invoice or similar billing document given to the purchaser.
- 33 (j) "Direct mail" means printed material delivered or distributed
34 by United States mail or other delivery services to a mass audience or
35 to addressees on a mailing list provided by the purchaser or at the
36 direction of the purchaser when the cost of the items are not billed
37 directly to the recipients. Direct mail includes tangible personal
38 property supplied directly or indirectly by the purchaser to the direct
39 mail seller for inclusion in the package containing the printed
40 material. Direct mail does not include multiple items of printed
41 material delivered to a single address.
- 42 (k) "Director" means the state director of taxation.
- 43 (l) "Educational institution" means any nonprofit school, college

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

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

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

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

40 (p) "Ingredient or component part" means tangible personal
41 property which is necessary or essential to, and which is actually used
42 in and becomes an integral and material part of tangible personal
43 property or services produced, manufactured or compounded for sale

1 by the producer, manufacturer or compounder in its regular course of
2 business. The following items of tangible personal property are hereby
3 declared to be ingredients or component parts, but the listing of such
4 property shall not be deemed to be exclusive nor shall such listing be
5 construed to be a restriction upon, or an indication of, the type or
6 types of property to be included within the definition of "ingredient or
7 component part" as herein set forth:

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

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

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

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

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

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

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

43 (r) "Lease or rental" means any transfer of possession or control

1 of tangible personal property for a fixed or indeterminate term for
2 consideration. A lease or rental may include future options to purchase
3 or extend.

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

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

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

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

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

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

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

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

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

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

41 (w) "Model 3 seller" means a seller that has sales in at least five
42 member states, has total annual sales revenue of at least \$500,000,000,
43 has a proprietary system that calculates the amount of tax due each

1 jurisdiction and has entered into a performance agreement with the
2 member states that establishes a tax performance standard for the
3 seller. As used in this subsection a seller includes an affiliated group of
4 sellers using the same proprietary system.

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

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

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

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

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

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

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

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

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

28 (B) electricity, gas and water; and

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

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

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

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

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

42 (ii) "Retailer" means a seller regularly engaged in the business of
43 selling, leasing or renting tangible personal property at retail or

1 furnishing electrical energy, gas, water, services or entertainment, and
2 selling only to the user or consumer and not for resale.

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

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

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

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

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

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

28 (D) delivery charges; and

29 (E) installation charges.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (E) commencing on July 1, 2018, and ending on June 30, 2021,
27 cash rebates granted by a manufacturer to a purchaser or lessee of a
28 new motor vehicle if paid directly to the retailer as a result of the
29 original sale.

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

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

34 (oo) "Sourcing rules" means the rules set forth in K.S.A. 2018
35 Supp. 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and
36 amendments thereto, which shall apply to identify and determine the
37 state and local taxing jurisdiction sales or use taxes to pay, or collect
38 and remit on a particular retail sale.

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

43 (qq) "Taxpayer" means any person obligated to account to the

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14 (3) tangible personal property;

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

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

18 (6) internet access service;

19 (7) radio and television audio and video programming services,
20 regardless of the medium, including the furnishing of transmission,
21 conveyance and routing of such services by the programming service
22 provider. Radio and television audio and video programming services
23 shall include, but not be limited to, cable service as defined in 47
24 U.S.C. § 522(6) and audio and video programming services delivered
25 by commercial mobile radio service providers, as defined in 47 C.F.R.
26 § 20.3;

27 (8) ancillary services; or

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

30 (bbb) "800 service" means a telecommunications service that
31 allows a caller to dial a toll-free number without incurring a charge
32 for the call. The service is typically marketed under the name 800, 855,
33 866, 877 and 888 toll-free calling, and any subsequent numbers
34 designated by the federal communications commission.

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

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

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

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

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

18 *(hhh) "Bottled water" means water that is placed in a safety sealed*
19 *container or package for human consumption. "Bottled water" is calorie*
20 *free and does not contain sweeteners or other additives, except that it may*
21 *contain:*

- 22 (1) *Antimicrobial agents;*
- 23 (2) *fluoride;*
- 24 (3) *carbonation;*
- 25 (4) *vitamins, minerals and electrolytes;*
- 26 (5) *oxygen;*
- 27 (6) *preservatives; or*
- 28 (7) *only those flavors, extracts or essences derived from a spice or*
29 *fruit.*

30 *"Bottled water" includes water that is delivered to the buyer in a*
31 *reusable container that is not sold with the water.*

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

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

39 *(lll) "Prepared food" means:*

- 40 (1) *Food sold in a heated state or heated by the seller;*
- 41 (2) *two or more food ingredients mixed or combined by the seller for*
42 *sale as a single item; or*
- 43 (3) *food sold with eating utensils provided by the seller, including*

1 *plates, knives, forks, spoons, glasses, cups, napkins or straws. A plate does*
2 *not include a container or packaging used to transport the food.*

3 *"Prepared food" does not include food that is only cut, repackaged or*
4 *pasteurized by the seller; and eggs, fish, meat, poultry and foods*
5 *containing these raw animal foods requiring cooking by the consumer as*
6 *recommended by the food and drug administration in chapter 3, part*
7 *401.11 of its food code so as to prevent food borne illnesses.*

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

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

14 **Sec. 15. K.S.A. 2018 Supp. 79-3603 is hereby amended to read as**
15 **follows: 79-3603. For the privilege of engaging in the business of**
16 **selling tangible personal property at retail in this state or rendering or**
17 **furnishing any of the services taxable under this act, there is hereby**
18 **levied and there shall be collected and paid a tax at the rate of ~~6.15%~~,**
19 **and commencing July 1, 2015, at the rate of 6.5%-, except as otherwise**
20 **provided in section 13, and amendments thereto; and within a**
21 **redevelopment district established pursuant to K.S.A. 74-8921, and**
22 **amendments thereto, there is hereby levied and there shall be collected**
23 **and paid an additional tax at the rate of 2% until the earlier of the**
24 **date the bonds issued to finance or refinance the redevelopment**
25 **project have been paid in full or the final scheduled maturity of the**
26 **first series of bonds issued to finance any part of the project. Such tax**
27 **shall be imposed upon:**

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

30 **(b) the gross receipts from intrastate, interstate or international**
31 **telecommunications services and any ancillary services sourced to this**
32 **state in accordance with K.S.A. 2018 Supp. 79-3673, and amendments**
33 **thereto, except that telecommunications service does not include: (1)**
34 **Any interstate or international 800 or 900 service; (2) any interstate or**
35 **international private communications service as defined in K.S.A.**
36 **2018 Supp. 79-3673, and amendments thereto; (3) any value-added**
37 **nonvoice data service; (4) any telecommunication service to a provider**
38 **of telecommunication services which will be used to render**
39 **telecommunications services, including carrier access services; or (5)**
40 **any service or transaction defined in this section among entities**
41 **classified as members of an affiliated group as provided by section**
42 **1504 of the federal internal revenue code of 1986, as in effect on**
43 **January 1, 2001;**

1 (c) the gross receipts from the sale or furnishing of gas, water,
2 electricity and heat, which sale is not otherwise exempt from taxation
3 under the provisions of this act, and whether furnished by municipally
4 or privately owned utilities, except that, on and after January 1, 2006,
5 for sales of gas, electricity and heat delivered through mains, lines or
6 pipes to residential premises for noncommercial use by the occupant
7 of such premises, and for agricultural use and also, for such use, all
8 sales of propane gas, the state rate shall be 0%; and for all sales of
9 propane gas, LP gas, coal, wood and other fuel sources for the
10 production of heat or lighting for noncommercial use of an occupant
11 of residential premises, the state rate shall be 0%, but such tax shall
12 not be levied and collected upon the gross receipts from: (1) The sale
13 of a rural water district benefit unit; (2) a water system impact fee,
14 system enhancement fee or similar fee collected by a water supplier as
15 a condition for establishing service; or (3) connection or reconnection
16 fees collected by a water supplier;

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

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

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

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

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

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

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

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

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

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

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

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

41 (n) the gross receipts received from dues charged by public and
42 private clubs, drinking establishments, organizations and businesses,
43 payment of which entitles a member to the use of facilities for

1 recreation or entertainment, but such tax shall not be levied and
2 collected upon the gross receipts received from: (1) Dues charged by
3 any organization exempt from property taxation pursuant to K.S.A.
4 79-201 *Eighth* and *Ninth*, and amendments thereto; and (2) sales of
5 memberships in a nonprofit organization which is exempt from
6 federal income taxation pursuant to section 501(c)(3) of the federal
7 internal revenue code of 1986, and whose purpose is to support the
8 operation of a nonprofit zoo;

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

1 fair market value of any motor vehicle or trailer traded in by the
2 purchaser to the seller may be deducted from the selling price;

3 (p) the gross receipts received for the service of installing or
4 applying tangible personal property which when installed or applied is
5 not being held for sale in the regular course of business, and whether
6 or not such tangible personal property when installed or applied
7 remains tangible personal property or becomes a part of real estate,
8 except that no tax shall be imposed upon the service of installing or
9 applying tangible personal property in connection with the original
10 construction of a building or facility, the original construction,
11 reconstruction, restoration, remodeling, renovation, repair or
12 replacement of a residence or the construction, reconstruction,
13 restoration, replacement or repair of a bridge or highway.

14 For the purposes of this subsection:

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

26 (2) "building" shall mean only those enclosures within which
27 individuals customarily are employed, or which are customarily used
28 to house machinery, equipment or other property, and including the
29 land improvements immediately surrounding such building;

30 (3) "facility" shall mean a mill, plant, refinery, oil or gas well,
31 water well, feedlot or any conveyance, transmission or distribution
32 line of any cooperative, nonprofit, membership corporation organized
33 under or subject to the provisions of K.S.A. 17-4601 et seq., and
34 amendments thereto, or municipal or quasi-municipal corporation,
35 including the land improvements immediately surrounding such
36 facility;

37 (4) "residence" shall mean only those enclosures within which
38 individuals customarily live;

39 (5) "utility structure" shall mean transmission and distribution
40 lines owned by an independent transmission company or cooperative,
41 the Kansas electric transmission authority or natural gas or electric
42 public utility; and

43 (6) "windstorm" shall mean straight line winds of at least 80

1 miles per hour as determined by a recognized meteorological
2 reporting agency or organization;

3 (q) the gross receipts received for the service of repairing,
4 servicing, altering or maintaining tangible personal property which
5 when such services are rendered is not being held for sale in the
6 regular course of business, and whether or not any tangible personal
7 property is transferred in connection therewith. The tax imposed by
8 this subsection shall be applicable to the services of repairing,
9 servicing, altering or maintaining an item of tangible personal
10 property which has been and is fastened to, connected with or built
11 into real property;

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

16 (s) on and after January 1, 2005, the gross receipts received from
17 the sale of prewritten computer software and the sale of the services of
18 modifying, altering, updating or maintaining prewritten computer
19 software, whether the prewritten computer software is installed or
20 delivered electronically by tangible storage media physically
21 transferred to the purchaser or by load and leave;

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

23 (u) the gross receipts received from the sale of prepaid calling
24 service and prepaid wireless calling service as defined in K.S.A. 2018
25 Supp. 79-3673, and amendments thereto;

26 (v) all sales of bingo cards, bingo faces and instant bingo tickets
27 by licensees under K.S.A. 2018 Supp. 75-5171 et seq., and
28 amendments thereto, shall be exempt from taxes imposed pursuant to
29 this section; and

30 (w) all sales of charitable raffle tickets in accordance with K.S.A.
31 2018 Supp. 75-5171 et seq., and amendments thereto, shall be exempt
32 from taxes imposed pursuant to this section.

33 Sec. 16. K.S.A. 2018 Supp. 79-3620 is hereby amended to read as
34 follows: 79-3620. (a) All revenue collected or received by the director
35 of taxation from the taxes imposed by this act shall be remitted to the
36 state treasurer in accordance with the provisions of K.S.A. 75-4215,
37 and amendments thereto. Upon receipt of each such remittance, the
38 state treasurer shall deposit the entire amount in the state treasury,
39 less amounts withheld as provided in subsection (b) and amounts
40 credited as provided in subsections (c), (d) and (e), to the credit of the
41 state general fund.

42 (b) A refund fund, designated as "sales tax refund fund" not to
43 exceed \$100,000 shall be set apart and maintained by the director

1 from sales tax collections and estimated tax collections and held by the
2 state treasurer for prompt payment of all sales tax refunds. Such fund
3 shall be in such amount, within the limit set by this section, as the
4 director shall determine is necessary to meet current refunding
5 requirements under this act. In the event such fund as established by
6 this section is, at any time, insufficient to provide for the payment of
7 refunds due claimants thereof, the director shall certify the amount of
8 additional funds required to the director of accounts and reports who
9 shall promptly transfer the required amount from the state general
10 fund to the sales tax refund fund, and notify the state treasurer, who
11 shall make proper entry in the records.

12 (c)(1) ~~On July 1, 2010, the state treasurer shall credit 11.427% of the~~
13 ~~revenue collected and received from the tax imposed by K.S.A. 79-3603,~~
14 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
15 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
16 ~~the state highway fund.~~

17 (2) ~~On July 1, 2011, the state treasurer shall credit 11.26% of the~~
18 ~~revenue collected and received from the tax imposed by K.S.A. 79-3603,~~
19 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
20 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
21 ~~the state highway fund.~~

22 (3) ~~On July 1, 2012, the state treasurer shall credit 11.233% of the~~
23 ~~revenue collected and received from the tax imposed by K.S.A. 79-3603,~~
24 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
25 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
26 ~~the state highway fund.~~

27 (4) ~~On July 1, 2013, the state treasurer shall credit 17.073% of the~~
28 ~~revenue collected and received from the tax imposed by K.S.A. 79-3603,~~
29 ~~and amendments thereto, at the rate of 6.15%, and deposited as provided~~
30 ~~by subsection (a), exclusive of amounts credited pursuant to subsection~~
31 ~~(d), in the state highway fund.~~

32 (5) ~~On July 1, 2015, the state treasurer shall credit 16.226% of the~~
33 ~~revenue collected and received from the tax imposed by K.S.A. 79-3603,~~
34 ~~and amendments thereto, at the rate of 6.5%, and deposited as provided by~~
35 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
36 ~~the state highway fund.~~

37 (6) **On July 1, 2016, and thereafter, the state treasurer shall credit**
38 **16.154% of the revenue collected and received from the tax imposed**
39 **by K.S.A. 79-3603, and amendments thereto, at the rate of 6.5%, and**
40 **section 13, and amendments thereto, at the rates prescribed in K.S.A. 79-**
41 **3603, and amendments thereto, and section 13, and amendments thereto,**
42 **and deposited as provided by subsection (a), exclusive of amounts**
43 **credited pursuant to subsection (d), in the state highway fund.**

1 (d) The state treasurer shall credit all revenue collected or
2 received from the tax imposed by K.S.A. 79-3603, and amendments
3 thereto, as certified by the director, from taxpayers doing business
4 within that portion of a STAR bond project district occupied by a
5 STAR bond project or taxpayers doing business with such entity
6 financed by a STAR bond project as defined in K.S.A. 2018 Supp. 12-
7 17,162, and amendments thereto, that was determined by the
8 secretary of commerce to be of statewide as well as local importance
9 or will create a major tourism area for the state or the project was
10 designated as a STAR bond project as defined in K.S.A. 2018 Supp.
11 12-17,162, and amendments thereto, to the city bond finance fund,
12 which fund is hereby created. The provisions of this subsection shall
13 expire when the total of all amounts credited hereunder and under
14 K.S.A. 79-3710(d), and amendments thereto, is sufficient to retire the
15 special obligation bonds issued for the purpose of financing all or a
16 portion of the costs of such STAR bond project.

17 (e) All revenue certified by the director of taxation as having been
18 collected or received from the tax imposed by K.S.A. 79-3603(c), and
19 amendments thereto, on the sale or furnishing of gas, water, electricity
20 and heat for use or consumption within the intermodal facility district
21 described in this subsection, shall be credited by the state treasurer to
22 the state highway fund. Such revenue may be transferred by the
23 secretary of transportation to the rail service improvement fund
24 pursuant to law. The provisions of this subsection shall take effect
25 upon certification by the secretary of transportation that a notice to
26 proceed has been received for the construction of the improvements
27 within the intermodal facility district, but not later than December 31,
28 2010, and shall expire when the secretary of revenue determines that
29 the total of all amounts credited hereunder and pursuant to K.S.A. 79-
30 3710(e), and amendments thereto, is equal to \$53,300,000, but not
31 later than December 31, 2045. Thereafter, all revenues shall be
32 collected and distributed in accordance with applicable law. For all
33 tax reporting periods during which the provisions of this subsection
34 are in effect, none of the exemptions contained in K.S.A. 79-3601 et
35 seq., and amendments thereto, shall apply to the sale or furnishing of
36 any gas, water, electricity and heat for use or consumption within the
37 intermodal facility district. As used in this subsection, "intermodal
38 facility district" shall consist of an intermodal transportation area as
39 defined by K.S.A. 12-1770a(oo), and amendments thereto, located in
40 Johnson county within the polygonal-shaped area having Waverly
41 Road as the eastern boundary, 191st Street as the southern boundary,
42 Four Corners Road as the western boundary, and Highway 56 as the
43 northern boundary, and the polygonal-shaped area having Poplar

1 Road as the eastern boundary, 183rd Street as the southern boundary,
2 Waverly Road as the western boundary, and the BNSF mainline track
3 as the northern boundary, that includes capital investment in an
4 amount exceeding \$150 million for the construction of an intermodal
5 facility to handle the transfer, storage and distribution of freight
6 through railway and trucking operations.

7 Sec. 17. K.S.A. 2018 Supp. 79-3702 is hereby amended to read as
8 follows: 79-3702. For the purposes of this act: (a) "Purchase price"
9 means the consideration paid or given or contracted to be paid or
10 given by any person to the seller of an article of tangible personal
11 property for the article purchased. The term shall include, in addition
12 to the consideration paid or given or contracted to be paid or given,
13 the actual cost of transportation from the place where the article was
14 purchased to the person using the same in this state. If a cash discount
15 is allowed and taken on the sale it shall be deducted in arriving at the
16 purchase price.

17 (b) The meaning ascribed to words and phrases in K.S.A. 79-
18 3602, and amendments thereto, insofar as is practicable, shall be
19 applicable herein unless otherwise provided. The provisions of K.S.A.
20 79-3601 ~~to~~ through 79-3625, ~~inclusive~~, 79-3650, and amendments thereto,
21 and K.S.A. 2018 Supp. 79-3693 and 79-3694, and amendments thereto,
22 relating to enforcement, collection and administration, insofar as
23 practicable, shall have full force and effect with respect to taxes
24 imposed under the provisions of this act.

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

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

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

42 (f) "Property used in processing" means: (1) Any tangible
43 personal property which, when used in fabrication, compounding,

1 manufacturing or germination, becomes an integral part of the new
2 article resulting from such fabrication, compounding, manufacturing,
3 or germination, and intended to be sold ultimately at retail; and (2)
4 fuel which is consumed in creating power, heat, or steam for
5 processing or for generating electric current.

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

18 (h) (1) "Retailer doing business in this state" or any like term,
19 means: (A) Any retailer maintaining in this state, permanently,
20 temporarily, directly or indirectly through a subsidiary, agent or
21 representative, an office, distribution house, sales house, warehouse or
22 other place of business;

23 (B) any retailer utilizing an employee, independent contractor,
24 agent, representative, salesperson, canvasser, solicitor or other person
25 operating in this state either permanently or temporarily, for the
26 purpose of selling, delivering, installing, assembling, servicing,
27 repairing, soliciting sales or the taking of orders for tangible personal
28 property;

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

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

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

38 (F) any retailer who has any other contact with this state that
39 would allow this state to require the retailer to collect and remit tax
40 under the provisions of the constitution and laws of the United States;
41 *and*

42 (G) (i) *for any retailer that does not satisfy any of the requirements*
43 *contained in subparagraphs (A) through (F), such retailer shall be a*

1 *retailer doing business in this state, if:*

2 (a) *For calendar year 2018, the retailer had in excess of \$100,000 of*
3 *cumulative gross receipts from sales by the retailer to customers in this*
4 *state;*

5 (b) *for the period beginning on January 1, 2019, through September*
6 *30, 2019, the retailer had in excess of \$100,000 of cumulative gross*
7 *receipts from sales by the retailer to customers in this state; or*

8 (c) *during the current or immediately preceding calendar year, the*
9 *retailer had in excess of \$100,000 of cumulative gross receipts from sales*
10 *by the retailer to customers in this state.*

11 (i) (a) *For any retailer who satisfies the provisions of subparagraph*
12 *(G)(i), such retailer shall not be required to collect and remit any taxes*
13 *from sales occurring prior to October 1, 2019.*

14 (b) *For any retailer who satisfies the provisions of subparagraph (G)*
15 *(i)(c) for sales in the current calendar year for the first time, such retailer*
16 *shall be required to collect and remit the tax on any sales in excess of the*
17 *\$100,000 of cumulative gross receipts from sales in the current calendar*
18 *year by the retailer to customers in this state.*

19 **(2) A retailer shall be presumed to be doing business in this state**
20 **if any of the following occur:**

21 (A) ~~Any person, other than a common carrier acting in its capacity as~~
22 ~~such, that has nexus with the state sufficient to require such person to~~
23 ~~collect and remit taxes under the provisions of the constitution and laws of~~
24 ~~the United States if such person were making taxable retail sales of~~
25 ~~tangible personal property or services in this state:~~

26 (i) ~~Sells the same or a substantially similar line of products as the~~
27 ~~retailer and does so under the same or a substantially similar business~~
28 ~~name;~~

29 (ii) ~~maintains a distribution house, sales house, warehouse or similar~~
30 ~~place of business in Kansas that delivers or facilitates the sale or delivery~~
31 ~~of property sold by the retailer to consumers;~~

32 (iii) ~~uses trademarks, service marks, or trade names in the state that~~
33 ~~are the same or substantially similar to those used by the retailer;~~

34 (iv) ~~delivers, installs, assembles or performs maintenance services for~~
35 ~~the retailer's customers within the state;~~

36 (v) ~~facilitates the retailer's delivery of property to customers in the~~
37 ~~state by allowing the retailer's customers to pick up property sold by the~~
38 ~~retailer at an office, distribution facility, warehouse, storage place or~~
39 ~~similar place of business maintained by the person in the state;~~

40 (vi) ~~has a franchisee or licensee operating under its trade name if the~~
41 ~~franchisee or the licensee is required to collect the tax under the Kansas~~
42 ~~retailers' sales tax act; or~~

43 (vii) ~~conducts any other activities in the state that are significantly~~

1 associated with the retailer's ability to establish and maintain a market in
2 the state for the retailer's sales.

3 ~~(B) Any affiliated person conducting activities in this state described~~
4 ~~in subparagraph (A) or (C) has nexus with this state sufficient to require~~
5 ~~such person to collect and remit taxes under the provisions of the~~
6 ~~constitution and laws of the United States if such person were making~~
7 ~~taxable retail sales of tangible personal property or services in this state.~~

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

31 ~~(D) The presumptions in subparagraphs (A) and (B) may be rebutted~~
32 ~~by demonstrating that the activities of the person or affiliated person in the~~
33 ~~state are not significantly associated with the retailer's ability to establish~~
34 ~~or maintain a market in this state for the retailer's sales. *the retailer is*~~
35 ~~*subject to the provisions set forth in subsection (h)(1)(G) for a retailer*~~
36 ~~*doing business in this state and has in excess of \$100,000 of cumulative*~~
37 ~~*gross receipts from sales by the retailer to customers in this state. Such*~~
38 ~~*retailer shall have nexus with this state sufficient to require such retailer*~~
39 ~~*to collect and remit taxes under the provisions of the constitution and laws*~~
40 ~~*of the United States if such retailer were making taxable retail sales of*~~
41 ~~*tangible personal property in this state.*~~

42 **(3) The processing of orders electronically, by fax, telephone, the**
43 **internet or other electronic ordering process, does not relieve a retailer**

1 of responsibility for collection of the tax from the purchaser if the
2 retailer is doing business in this state pursuant to this section.

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

4 (j) As used in this section, "~~affiliated person~~" means any person that
5 is a member of the same "~~controlled group of corporations~~" as defined in
6 section 1563(a) of the federal internal revenue code as the retailer or any
7 other entity that, notwithstanding its form of organization, bears the same
8 ownership relationship to the retailer as a corporation that is a member of
9 the same "~~controlled group of corporations~~" as defined in section 1563(a)
10 of the federal internal revenue code "*cumulative gross receipts*" means
11 gross receipts as defined in K.S.A. 79-3602, and amendments thereto, and
12 includes the gross receipts received by the retailer from its own direct
13 sales combined with the gross receipts from sales facilitated on behalf of
14 the retailers by a marketplace facilitator or marketplace facilitators, as
15 defined in section 5, and amendments thereto.

16 **Sec. 18. K.S.A. 2018 Supp. 79-3703 is hereby amended to read as**
17 **follows: 79-3703. There is hereby levied and there shall be collected**
18 **from every person in this state a tax or excise for the privilege of**
19 **using, storing, or consuming within this state any article of tangible**
20 **personal property. Such tax shall be levied and collected in an amount**
21 **equal to the consideration paid by the taxpayer multiplied by the rate**
22 **of 6.5% and on and after October 1, 2019, the rate on food and food**
23 **ingredients as provided in section 13, and amendments thereto. Within a**
24 **redevelopment district established pursuant to K.S.A. 74-8921, and**
25 **amendments thereto, there is hereby levied and there shall be collected**
26 **and paid an additional tax of 2% until the earlier of: (1) The date the**
27 **bonds issued to finance or refinance the redevelopment project**
28 **undertaken in the district have been paid in full; or (2) the final**
29 **scheduled maturity of the first series of bonds issued to finance the**
30 **redevelopment project. All property purchased or leased within or**
31 **without this state and subsequently used, stored or consumed in this**
32 **state shall be subject to the compensating tax if the same property or**
33 **transaction would have been subject to the Kansas retailers' sales tax**
34 **had the transaction been wholly within this state.**

35 **Sec. 19. K.S.A. 2018 Supp. 79-3710 is hereby amended to read as**
36 **follows: 79-3710. (a) All revenue collected or received by the director**
37 **under the provisions of this act shall be remitted to the state treasurer**
38 **in accordance with the provisions of K.S.A. 75-4215, and amendments**
39 **thereto. Upon receipt of each such remittance, the state treasurer shall**
40 **deposit the entire amount in the state treasury, less amounts set apart**
41 **as provided in subsection (b) and amounts credited as provided in**
42 **subsection (c), (d) and (e), to the credit of the state general fund.**

43 (b) A revolving fund, designated as "compensating tax refund

1 **fund" not to exceed \$10,000 shall be set apart and maintained by the**
2 **director from compensating tax collections and estimated tax**
3 **collections and held by the state treasurer for prompt payment of all**
4 **compensating tax refunds. Such fund shall be in such amount, within**
5 **the limit set by this section, as the director shall determine is necessary**
6 **to meet current refunding requirements under this act.**

7 ~~(c)(1) On July 1, 2010, the state treasurer shall credit 11.427% of the~~
8 ~~revenue collected and received from the tax imposed by K.S.A. 79-3703,~~
9 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
10 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
11 ~~the state highway fund.~~

12 ~~(2) On July 1, 2011, the state treasurer shall credit 11.26% of the~~
13 ~~revenue collected and received from the tax imposed by K.S.A. 79-3703,~~
14 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
15 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
16 ~~the state highway fund.~~

17 ~~(3) On July 1, 2012, the state treasurer shall credit 11.233% of the~~
18 ~~revenue collected and received from the tax imposed by K.S.A. 79-3703,~~
19 ~~and amendments thereto, at the rate of 6.3%, and deposited as provided by~~
20 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
21 ~~the state highway fund.~~

22 ~~(4) On July 1, 2013, the state treasurer shall credit 17.073% of the~~
23 ~~revenue collected and received from the tax imposed by K.S.A. 79-3703,~~
24 ~~and amendments thereto, at the rate of 6.15%, and deposited as provided~~
25 ~~by subsection (a), exclusive of amounts credited pursuant to subsection~~
26 ~~(d), in the state highway fund.~~

27 ~~(5) On July 1, 2015, the state treasurer shall credit 16.226% of the~~
28 ~~revenue collected and received from the tax imposed by K.S.A. 79-3703,~~
29 ~~and amendments thereto, at the rate of 6.5%, and deposited as provided by~~
30 ~~subsection (a), exclusive of amounts credited pursuant to subsection (d), in~~
31 ~~the state highway fund.~~

32 **(6) On July 1, 2016, and thereafter, the state treasurer shall credit**
33 **16.154% of the revenue collected and received from the tax imposed**
34 **by K.S.A. 79-3703, and amendments thereto, and section 13, and**
35 **amendments thereto, at the rate of 6.5% rates provided in K.S.A. 79-3703,**
36 **and amendments thereto, and section 13, and amendments thereto, and**
37 **deposited as provided by subsection (a), exclusive of amounts credited**
38 **pursuant to subsection (d), in the state highway fund.**

39 **(d) The state treasurer shall credit all revenue collected or**
40 **received from the tax imposed by K.S.A. 79-3703, and amendments**
41 **thereto, as certified by the director, from taxpayers doing business**
42 **within that portion of a redevelopment district occupied by a**
43 **redevelopment project that was determined by the secretary of**

1 commerce to be of statewide as well as local importance or will create
2 a major tourism area for the state as defined in K.S.A. 12-1770a, and
3 amendments thereto, to the city bond finance fund created by K.S.A.
4 79-3620(d), and amendments thereto. The provisions of this subsection
5 shall expire when the total of all amounts credited hereunder and
6 under K.S.A. 79-3620(d), and amendments thereto, is sufficient to
7 retire the special obligation bonds issued for the purpose of financing
8 all or a portion of the costs of such redevelopment project.

9 This subsection shall not apply to a project designated as a special
10 bond project as defined in K.S.A. 12-1770a(z), and amendments
11 thereto.

12 (e) All revenue certified by the director of taxation as having been
13 collected or received from the tax imposed by K.S.A. 79-3603(c), and
14 amendments thereto, on the sale or furnishing of gas, water, electricity
15 and heat for use or consumption within the intermodal facility district
16 described in this subsection, shall be credited by the state treasurer to
17 the state highway fund. Such revenue may be transferred by the
18 secretary of transportation to the rail service improvement fund
19 pursuant to law. The provisions of this subsection shall take effect
20 upon certification by the secretary of transportation that a notice to
21 proceed has been received for the construction of the improvements
22 within the intermodal facility district, but not later than December 31,
23 2010, and shall expire when the secretary of revenue determines that
24 the total of all amounts credited hereunder and pursuant to K.S.A. 79-
25 3620(e), and amendments thereto, is equal to \$53,300,000, but not
26 later than December 31, 2045. Thereafter, all revenues shall be
27 collected and distributed in accordance with applicable law. For all
28 tax reporting periods during which the provisions of this subsection
29 are in effect, none of the exemptions contained in K.S.A. 79-3601 et
30 seq., and amendments thereto, shall apply to the sale or furnishing of
31 any gas, water, electricity and heat for use or consumption within the
32 intermodal facility district. As used in this subsection, "intermodal
33 facility district" shall consist of an intermodal transportation area as
34 defined by K.S.A. 12-1770a(oo), and amendments thereto, located in
35 Johnson county within the polygonal-shaped area having Waverly
36 Road as the eastern boundary, 191st Street as the southern boundary,
37 Four Corners Road as the western boundary, and Highway 56 as the
38 northern boundary, and the polygonal-shaped area having Poplar
39 Road as the eastern boundary, 183rd Street as the southern boundary,
40 Waverly Road as the western boundary, and the BNSF mainline track
41 as the northern boundary, that includes capital investment in an
42 amount exceeding \$150 million for the construction of an intermodal
43 facility to handle the transfer, storage and distribution of freight

1 **through railway and trucking operations.**

2 Sec. ~~4~~ **20.** K.S.A. 2018 Supp. **79-3221o**, 79-32,117, 79-32,120~~and~~,
3 79-32,138, **79-3602, 79-3603, 79-3620, 79-3702, 79-3703 and 79-3710**
4 are hereby repealed.

5 Sec. ~~5~~ **21.** This act shall take effect and be in force from and after its
6 publication in the statute book.