

HOUSE BILL No. 2584

By Committee on Taxation

Requested by Representative Bergkamp

1-24

1 AN ACT concerning taxation; relating to sales and compensating use tax;
2 providing for the taxation of digital property and subscription services;
3 decreasing rates of such taxes in certain circumstances; amending
4 K.S.A. 2023 Supp. 79-3602, 79-3603 and 79-3703 and repealing the
5 existing sections; also repealing K.S.A. 2023 Supp. 79-3602c.
6

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

8 New Section 1. (a) Commencing with fiscal year 2026, once the
9 revenue attributable to the retailers' sales tax generated from sales of
10 digital property subscription services pursuant to K.S.A. 79-3603(y), and
11 amendments thereto, exceeds \$36,700,000, the rate of tax imposed by the
12 Kansas retailers' sales tax act and the Kansas compensating tax pursuant to
13 K.S.A. 79-3603 and 79-3703, and amendments thereto, shall be decreased
14 by 0.1%, respectively pursuant to the provisions of subsection (c).

15 (b) Subsequently, in the event of an increase in revenue attributable to
16 the Kansas retailers' sales tax act and the Kansas compensating tax
17 generated from sales of digital property and subscription services of
18 \$60,000,000 since a prior adjustment in rate, such tax rates shall be further
19 decreased by 0.1% pursuant to the provisions of subsection (c).

20 (c) In the event that the tax generated exceeds the amount set forth in
21 subsections (a) or (b), the director of legislative research shall certify such
22 amount by September 1 to the secretary of revenue and the director of the
23 budget. Upon receipt of such certified amount, the secretary shall decrease
24 the state rate for sales and compensating use taxes by 0.1% to go into
25 effect for the next calendar year. Such rate reductions shall remain in effect
26 unless further reduced pursuant to this section. Rate reductions pursuant to
27 this section shall be applied until the state rates for sales and compensating
28 use taxes are reduced to 6%. The secretary shall publish the new sales and
29 compensating use tax rates to take effect January 1 by October 1 of the
30 preceding year.

31 Sec. 2. K.S.A. 2023 Supp. 79-3602 is hereby amended to read as
32 follows: 79-3602. Except as otherwise provided, as used in the Kansas
33 retailers' sales tax act:

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

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

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

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

10 (e) *"Applications" means software programs, services or resources*
11 *made available to users via the internet, designed to perform a group of*
12 *coordinated functions, tasks or activities and includes, but is not limited*
13 *to, cloud-based applications, desktop applications, mobile applications,*
14 *native applications and web applications.*

15 (f) (1) *"Bottled water" means water that is placed in a safety sealed*
16 *container or package for human consumption. "Bottled water" is calorie*
17 *free and does not contain sweeteners or other additives, except that it may*
18 *contain:*

19 (A) *Antimicrobial agents;*

20 (B) *fluoride;*

21 (C) *carbonation;*

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

23 (E) *oxygen;*

24 (F) *preservatives; or*

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

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

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

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

34 (h) *"Cereal malt beverage" means the same as defined in K.S.A. 41-*
35 *2701, and amendments thereto, except that for the purposes of the Kansas*
36 *retailers' sales tax act and for no other purpose. Cereal malt beverage*
37 *includes beer containing not more than 6% alcohol by volume when such*
38 *beer is sold by a retailer licensed under the Kansas cereal malt beverage*
39 *act.*

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

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

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

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

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

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

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

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

27 (q) *"Digital audio-visual works" means a series of related images*
28 *that, when shown in succession, impart an impression of motion, with*
29 *accompanying sounds, if any, and includes, but is not limited to, movies,*
30 *motion pictures, musical videos, news and entertainment programs and*
31 *live events. "Digital audio-visual works" does not include video greeting*
32 *cards, video games or electronic games.*

33 (r) *"Digital audio works" means works that result from the fixation of*
34 *a series of musical, spoken or other sounds and includes, but is not limited*
35 *to, ringtones, recorded or live songs, music, readings of books or other*
36 *written materials, speeches or other sound recordings. "Digital audio*
37 *works" does not include audio greeting cards sent by electronic mail.*

38 (s) *"Digital books" means works that are generally recognized in the*
39 *ordinary and usual sense as books, including any literary work expressed*
40 *in words, numbers or other verbal or numerical symbols or indicia if the*
41 *literary work is generally recognized in the ordinary or usual sense as a*
42 *book. "Digital books" does not include digital audio-visual works, digital*
43 *audio works, periodicals, magazines, newspapers or other news or*

1 *information products, chat rooms or web logs.*

2 *(t) (1) "Digital code" means a code that provides a purchaser with a*
 3 *right to obtain one or more types of digital property. A "digital code" may*
 4 *be obtained by any means, including electronic mail messaging or by*
 5 *tangible means, regardless of the code's designation as a song code, video*
 6 *code or book code.*

7 *(2) "Digital code" does not include a code that represents:*

8 *(A) A stored monetary value that is deducted from a total as it is used*
 9 *by the purchaser; or*

10 *(B) a redeemable card, gift card or gift certificate that entitles the*
 11 *holder to select specific types of digital property.*

12 *(u) "Digital property" means media or products that are encoded in*
 13 *machine-readable formats and includes, but is not limited to, any of the*
 14 *following that are transferred electronically:*

15 *(1) Digital audio-visual works;*

16 *(2) digital audio works;*

17 *(3) digital books;*

18 *(4) artwork;*

19 *(5) digital photographs and pictures;*

20 *(6) periodicals;*

21 *(7) newspapers;*

22 *(8) magazines;*

23 *(9) video, audio and other greeting cards;*

24 *(10) graphics;*

25 *(11) templates;*

26 *(12) patterns;*

27 *(13) desktop applications;*

28 *(14) mobile applications;*

29 *(15) web applications;*

30 *(16) cloud-based applications;*

31 *(17) native applications;*

32 *(18) online games;*

33 *(19) video games;*

34 *(20) electronic games;*

35 *(21) any digital code related to any of the items provided in this*
 36 *subsection; or*

37 *(22) any streaming services related to any of the items provided in*
 38 *this subsection.*

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

1 directly or indirectly by the purchaser to the direct mail seller for inclusion
2 in the package containing the printed material. Direct mail does not
3 include multiple items of printed material delivered to a single address.

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

5 (x) *"Directory assistance" means an ancillary service of providing*
6 *telephone number information or address information, or both.*

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (ee) "*International*" means a telecommunications service that
36 originates or terminates in the United States and terminates or originates
37 outside the United States, respectively. The United States includes the
38 District of Columbia and any United States territory or possession.

39 (ff) "*Interstate*" means a telecommunications service that originates
40 in a state within the United States or a United States territory or
41 possession and terminates in a different state within the United States or a
42 United States territory or possession.

43 (gg) "*Intrastate*" means a telecommunications service that originates

1 *in a state within the United States or a United States territory or*
2 *possession and terminates in the same state within the United States or a*
3 *United States territory or possession.*

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

18 ~~(h)~~(ii) "Lease or rental" means any transfer of possession or control of
19 tangible personal property for a fixed or indeterminate term for
20 consideration. A lease or rental may include future options to purchase or
21 extend.

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

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

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

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

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

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

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

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

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

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

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

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

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

31 *(qq) "Nonprofit integrated community care organization" means an
32 entity that is:*

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

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

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

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

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

15 ~~(aa)~~(tt) "Political subdivision" means any municipality, agency or
16 subdivision of the state that is, or shall hereafter be, authorized to levy
17 taxes upon tangible property within the state or that certifies a levy to a
18 municipality, agency or subdivision of the state that is, or shall hereafter
19 be, authorized to levy taxes upon tangible property within the state. Such
20 term also shall include any public building commission, housing, airport,
21 port, metropolitan transit or similar authority established pursuant to law
22 and the horsethief reservoir benefit district established pursuant to K.S.A.
23 82a-2201, and amendments thereto.

24 ~~(bb)~~(uu) (1) *"Prepared food" means:*

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

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

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

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

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

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

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

41 ~~(ee)~~(ww) "Prewritten computer software" means computer software,
42 including prewritten upgrades, that is not designed and developed by the
43 author or other creator to the specifications of a specific purchaser. The

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

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

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

33 (B) electricity, gas and water; and

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

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

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

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

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

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

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

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

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

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

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

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

33 (D) (i) prior to July 1, 2023, delivery charges; and

34 (ii) on and after July 1, 2023, delivery charges that are not separately
35 stated on the invoice, bill of sale or similar document given to the
36 purchaser; and

37 (E) installation charges.

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

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

43 (B) the seller has an obligation to pass the price reduction or discount

1 through to the purchaser;

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

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

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

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

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

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

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

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

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

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

32 (E) cash rebates granted by a manufacturer to a purchaser or lessee of
33 a new motor vehicle if paid directly to the retailer as a result of the original
34 sale; and

35 (F) commencing on July 1, 2023, delivery charges that are separately
36 stated on the invoice, bill of sale or similar document given to the
37 purchaser.

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

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

42 (iii) (1) *"Soft drinks" means nonalcoholic beverages that contain*
43 *natural or artificial sweeteners.*

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

4 ~~(oo)~~(jjj) *"Sourcing rules" means the rules set forth in K.S.A. 79-3670*
5 *through 79-3673, 12-191 and 12-191a, and amendments thereto, that shall*
6 *apply to identify and determine the state and local taxing jurisdiction sales*
7 *or use taxes to pay, or collect and remit on a particular retail sale.*

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

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

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

24 (1) *Data processing and information services that allow data to be*
25 *generated, acquired, stored, processed or retrieved and delivered by an*
26 *electronic transmission to a purchaser when such purchaser's primary*
27 *purpose for the underlying transaction is the processed data or*
28 *information;*

29 (2) *installation or maintenance of wiring or equipment on a*
30 *customer's premises;*

31 (3) *tangible personal property;*

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

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

34 (6) *internet access service;*

35 (7) *radio and television audio and video programming services,*
36 *regardless of the medium, including the furnishing of transmission,*
37 *conveyance and routing of such services by the programming service*
38 *provider. Radio and television audio and video programming services*
39 *shall include, but not be limited to, cable service as defined in 47 U.S.C. §*
40 *522(6) and audio and video programming services delivered by*
41 *commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;*

42 (8) *ancillary services; or*

43 (9) *digital products delivered electronically, including, but not limited*

1 *to, software, music, video, reading materials or ring tones.*

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

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

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

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

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

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

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

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

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

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

16 ~~(2) installation or maintenance of wiring or equipment on a~~
17 ~~customer's premises;~~

18 ~~(3) tangible personal property;~~

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

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

21 ~~(6) internet access service;~~

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

29 ~~(8) ancillary services; or~~

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

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

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

1 numbers designated by the federal communications commission.

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

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

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

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

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

25 ~~(iii) "Nonprofit integrated community care organization" means an~~
26 ~~entity that is:~~

27 ~~(1) Exempt from federal income taxation pursuant to section 501(e)~~
28 ~~(3) of the federal internal revenue code of 1986;~~

29 ~~(2) certified to participate in the medicare program as a hospice under~~
30 ~~42 C.F.R. § 418 et seq. and focused on providing care to the aging and~~
31 ~~indigent population at home and through inpatient care, adult daycare or~~
32 ~~assisted living facilities and related facilities and services across multiple~~
33 ~~counties; and~~

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

38 Sec. 3. K.S.A. 2023 Supp. 79-3603 is hereby amended to read as
39 follows: 79-3603. For the privilege of engaging in the business of selling
40 tangible personal property at retail in this state or rendering or furnishing
41 any of the services taxable under this act, there is hereby levied and there
42 shall be collected and paid a tax at the rate of 6.5% *or the rate as*
43 *decreased pursuant to section 1, and amendments thereto.* On and after

1 January 1, 2023, 17% and on and after January 1, 2025, 18% of the tax
2 rate imposed pursuant to this section and the rate provided in K.S.A. 2023
3 Supp. 79-3603d, and amendments thereto, shall be levied for the state
4 highway fund, the state highway fund purposes and those purposes
5 specified in K.S.A. 68-416, and amendments thereto, and all revenue
6 collected and received from such tax levy shall be deposited in the state
7 highway fund.

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

14 Such tax shall be imposed upon:

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

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

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

1 connection or reconnection fees collected by a water supplier;

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

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

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

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

21 (h) the gross receipts from the service of renting or leasing of tangible
22 personal property except such tax shall not apply to the renting or leasing
23 of machinery, equipment or other personal property owned by a city and
24 purchased from the proceeds of industrial revenue bonds issued prior to
25 July 1, 1973, in accordance with the provisions of K.S.A. 12-1740 through
26 12-1749, and amendments thereto, and any city or lessee renting or leasing
27 such machinery, equipment or other personal property purchased with the
28 proceeds of such bonds who shall have paid a tax under the provisions of
29 this section upon sales made prior to July 1, 1973, shall be entitled to a
30 refund from the sales tax refund fund of all taxes paid thereon;

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

34 (j) the gross receipts from the rendering of the services of washing
35 and washing and waxing of vehicles;

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

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

43 (2) Any such contractor, subcontractor or repairman who maintains

1 an inventory of such property both for sale at retail and for use by them for
2 the purposes described by paragraph (1) shall be deemed a retailer with
3 respect to purchases for and sales from such inventory, except that the
4 gross receipts received from any such sale, other than a sale at retail, shall
5 be equal to the total purchase price paid for such property and the tax
6 imposed thereon shall be paid by the deemed retailer;

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

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

31 (o) the gross receipts received from the isolated or occasional sale of
32 motor vehicles or trailers but not including: (1) The transfer of motor
33 vehicles or trailers by a person to a corporation or limited liability
34 company solely in exchange for stock securities or membership interest in
35 such corporation or limited liability company; (2) the transfer of motor
36 vehicles or trailers by one corporation or limited liability company to
37 another when all of the assets of such corporation or limited liability
38 company are transferred to such other corporation or limited liability
39 company; or (3) the sale of motor vehicles or trailers which are subject to
40 taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and
41 amendments thereto, by an immediate family member to another
42 immediate family member. For the purposes of paragraph (3), immediate
43 family member means lineal ascendants or descendants, and their spouses.

1 Any amount of sales tax paid pursuant to the Kansas retailers sales tax act
2 on the isolated or occasional sale of motor vehicles or trailers on and after
3 July 1, 2004, which the base for computing the tax was the value pursuant
4 to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when
5 such amount was higher than the amount of sales tax which would have
6 been paid under the law as it existed on June 30, 2004, shall be refunded to
7 the taxpayer pursuant to the procedure prescribed by this section. Such
8 refund shall be in an amount equal to the difference between the amount of
9 sales tax paid by the taxpayer and the amount of sales tax which would
10 have been paid by the taxpayer under the law as it existed on June 30,
11 2004. Each claim for a sales tax refund shall be verified and submitted not
12 later than six months from the effective date of this act to the director of
13 taxation upon forms furnished by the director and shall be accompanied by
14 any additional documentation required by the director. The director shall
15 review each claim and shall refund that amount of tax paid as provided by
16 this act. All such refunds shall be paid from the sales tax refund fund, upon
17 warrants of the director of accounts and reports pursuant to vouchers
18 approved by the director of taxation or the director's designee. No refund
19 for an amount less than \$10 shall be paid pursuant to this act. In
20 determining the base for computing the tax on such isolated or occasional
21 sale, the fair market value of any motor vehicle or trailer traded in by the
22 purchaser to the seller may be deducted from the selling price;

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

33 For the purposes of this subsection:

34 (1) "Original construction" means the first or initial construction of a
35 new building or facility. The term "original construction" shall include the
36 addition of an entire room or floor to any existing building or facility, the
37 completion of any unfinished portion of any existing building or facility
38 and the restoration, reconstruction or replacement of a building, facility or
39 utility structure damaged or destroyed by fire, flood, tornado, lightning,
40 explosion, windstorm, ice loading and attendant winds, terrorism or
41 earthquake, but such term, except with regard to a residence, shall not
42 include replacement, remodeling, restoration, renovation or reconstruction
43 under any other circumstances;

1 (2) "building" means only those enclosures within which individuals
2 customarily are employed, or which are customarily used to house
3 machinery, equipment or other property, and including the land
4 improvements immediately surrounding such building;

5 (3) "facility" means a mill, plant, refinery, oil or gas well, water well,
6 feedlot or any conveyance, transmission or distribution line of any
7 cooperative, nonprofit, membership corporation organized under or subject
8 to the provisions of K.S.A. 17-4601 et seq., and amendments thereto, or
9 municipal or quasi-municipal corporation, including the land
10 improvements immediately surrounding such facility;

11 (4) "residence" means only those enclosures within which individuals
12 customarily live;

13 (5) "utility structure" means transmission and distribution lines
14 owned by an independent transmission company or cooperative, the
15 Kansas electric transmission authority or natural gas or electric public
16 utility; and

17 (6) "windstorm" means straight line winds of at least 80 miles per
18 hour as determined by a recognized meteorological reporting agency or
19 organization;

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

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

31 (s) on and after January 1, 2005, the gross receipts received from the
32 sale of prewritten computer software and the sale of the services of
33 modifying, altering, updating or maintaining prewritten computer
34 software, whether the prewritten computer software is installed or
35 delivered electronically by tangible storage media physically transferred to
36 the purchaser or by load and leave;

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

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

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

1 (w) all sales of charitable raffle tickets in accordance with K.S.A. 75-
2 5171 et seq., and amendments thereto, shall be exempt from taxes imposed
3 pursuant to this section; ~~and~~

4 (x) commencing on January 1, 2023, and thereafter, the state rate on
5 the gross receipts from the sale of food and food ingredients shall be as set
6 forth in K.S.A. 2023 Supp. 79-3603d, and amendments thereto; *and*

7 (y) *all sales of digital property and subscription services thereto,*
8 *regardless of whether:*

9 (1) *The purchaser has the right to permanently use the property;*

10 (2) *the purchaser's right to access or retain the property is not*
11 *permanent; or*

12 (3) *the purchaser's right to use is conditioned upon continued*
13 *payment.*

14 Sec. 4. K.S.A. 2023 Supp. 79-3703 is hereby amended to read as
15 follows: 79-3703. (a) There is hereby levied and there shall be collected
16 from every person in this state a tax or excise for the privilege of using,
17 storing, or consuming within this state any article of tangible personal
18 property. Such tax shall be levied and collected in an amount equal to the
19 consideration paid by the taxpayer multiplied by the rate of 6.5% *or the*
20 *rate as decreased pursuant to section 1, and amendments thereto.*

21 (b) Commencing on January 1, 2023, and thereafter, the state rate on
22 the amount equal to the consideration paid by the taxpayer from the sale of
23 food and food ingredients as provided in K.S.A. 79-3603, and amendments
24 thereto, shall be as set forth in K.S.A. 2023 Supp. 79-3603d, and
25 amendments thereto.

26 (c) On and after January 1, 2023, 17% and on and after January 1,
27 2025, 18% of the tax rate imposed pursuant to this section and the rate
28 provided in K.S.A. 2023 Supp. 79-3603d, and amendments thereto, shall
29 be levied for the state highway fund, the state highway fund purposes and
30 those purposes specified in K.S.A. 68-416, and amendments thereto, and
31 all revenue collected and received from such tax levy shall be deposited in
32 the state highway fund.

33 (d) Within a redevelopment district established pursuant to K.S.A.
34 74-8921, and amendments thereto, there is hereby levied and there shall be
35 collected and paid an additional tax of 2% until the earlier of: (1) The date
36 the bonds issued to finance or refinance the redevelopment project
37 undertaken in the district have been paid in full; or (2) the final scheduled
38 maturity of the first series of bonds issued to finance the redevelopment
39 project.

40 (e) All property purchased or leased within or without this state and
41 subsequently used, stored or consumed in this state shall be subject to the
42 compensating tax if the same property or transaction would have been
43 subject to the Kansas retailers' sales tax had the transaction been wholly

1 within this state.

2 Sec. 5. K.S.A. 2023 Supp. 79-3602, 79-3602c, 79-3603 and 79-3703
3 are hereby repealed.

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