

HOUSE BILL No. 2625

By Representatives Rubin, Bradford, Brunk, Christmann, Claeys, Couture-Lovelady, DeGraaf, Dove, Edwards, Esau, Ewy, Garber, Gonzalez, Hedke, Houser, Howell, Jones, O'Brien, Osterman, Petty, Powell, Read, Rothlisberg and Sutton

2-11

1 AN ACT concerning taxation; enacting the Kansas fair tax of 2013
2 revised; eliminating income and sales taxes; imposing a consumption
3 tax; providing certain duties and requirements on retailers and
4 providers and the department of revenue; exemptions; consumption
5 allowance; creating the consumption tax transition committee;
6 providing for state compensating consumption tax; amending K.S.A.
7 2013 Supp. 79-32,110 and 79-3702 and repealing the existing sections;
8 also repealing K.S.A. 79-3294, 79-3294a and 79-3294b and K.S.A.
9 2013 Supp. 72-6431, 76-6b01, 76-6b04, 79-1107, 79-1108, 79-3295,
10 79-3296, 79-3298, 79-3299, 79-32,100, 79-32,100a, 79-32,100b, 79-
11 32,100c, 79-32,100d, 79-32,100e, 79-32,269 and 79-3603.

12
13 *Be it enacted by the Legislature of the State of Kansas:*

14 New Section 1. (a) The provisions of this act shall be known and may
15 be cited as the Kansas fair tax act of 2013 revised.

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

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

29 (d) The provisions of this act shall be effective on and after July 1,
30 2014.

31 New Sec. 2. (a) On and after January 1, 2015, or at the close of the
32 taxpayer's 2014 fiscal year, if the taxpayer's fiscal year does not coincide
33 with the calendar year, the Kansas income tax imposed pursuant to K.S.A.
34 79-32,110, and amendments thereto, on corporations and fiduciaries, the

1 Kansas retailers' sales tax imposed pursuant to K.S.A. 79-3603, and
2 amendments thereto, and the Kansas compensating tax are repealed and
3 shall not be levied or imposed thereby. For tax year 2014, the Kansas
4 income tax imposed on individuals shall be as imposed pursuant to K.S.A.
5 79-32,110, and amendments thereto. On January 1, 2015, or at the close of
6 the taxpayer's 2014 fiscal year, if the taxpayer's fiscal year does not
7 coincide with the calendar year, the Kansas income tax on individuals is
8 repealed and shall not be levied or imposed thereby.

9 (b) Any tax described in this subsection or in K.S.A. 79-32,110, and
10 amendments thereto, which is due and remains outstanding and payable by
11 a taxpayer on January 1, 2015, shall remain due and payable to the state in
12 accordance with the laws in effect when the tax obligations of the taxpayer
13 were incurred.

14 (c) Any income tax credit which is outstanding on January 1, 2015,
15 will be determined by an audit conducted by the transition committee.

16 New Sec. 3. (a) Except as provided in section 6, and amendments
17 thereto, for the privilege of engaging in the business of selling personally
18 consumed goods in this state at the point of sale in this state or rendering
19 or furnishing any personally consumed services in this state, there is
20 hereby levied and there shall be collected and paid a consumption tax on
21 the sales or selling price of new personally consumed goods and services
22 at the rate of 5.7%.

23 (b) In addition to the imposition of a consumption tax on goods and
24 services as provided in subsection (a), such tax shall be levied on:

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

28 (2) insurance premiums. Such tax shall be prorated and collected by
29 the insurance company at the time of payment of the premium. The rate of
30 such tax shall be an amount equal to the difference between the rate set in
31 subsection (a) and the amount of premium tax set pursuant to K.S.A. 40-
32 252, and amendments thereto;

33 (3) medical insurance copayments; and

34 (4) rental payments for real property and tangible personal property
35 for personal use.

36 New Sec. 4. The tax levied under this act shall be paid by the
37 personal consumer to the retailer or provider and it shall be the duty of
38 each and every retailer and provider in this state to collect from the
39 personal consumer, the full amount of the tax imposed or in an amount
40 equal as nearly as possible or practicable to the average equivalent thereof.
41 Such tax shall be a debt from the personal consumer to the retailer, when
42 so added to the original purchase price, and shall be recoverable at law in
43 the same manner as other debts. In the event the full amount of the tax

1 provided by this act is not paid to the retailer by the personal consumer, the
2 director of taxation may proceed directly against the personal consumer to
3 collect the full amount of the tax due on the retail sale.

4 New Sec. 5. Each personal consumer shall receive a sales receipt
5 from the retailer or provider at the time of purchase. Such receipt shall
6 contain the before-tax price of the goods or service, the consumption tax
7 rate, the total personal consumption tax rate on all services rendered and
8 products sold for personal consumption, and the total monetary amount of
9 the sales transaction.

10 New Sec. 6. The following shall be exempt from the tax imposed by
11 this act: (a) All sales of new or used residential or commercial real estate;

12 (b) all sales of motor-vehicle fuel or other articles upon which a sales
13 or excise tax has been paid, not subject to refund, under the laws of this
14 state, except cigarettes as defined by K.S.A. 79-3301, and amendments
15 thereto, cereal malt beverages and malt products as defined by K.S.A. 41-
16 2701, and amendments thereto, including wort, liquid malt, malt syrup and
17 malt extract, which are not subject to taxation under the provisions of
18 K.S.A. 79-41a02, and amendments thereto, motor vehicles taxed pursuant
19 to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A.
20 65-3424d, and amendments thereto, drycleaning and laundry services
21 taxed pursuant to K.S.A. 65-34,150, and amendments thereto, and gross
22 receipts from regulated sports contests taxed pursuant to the Kansas
23 professional regulated sports act, and amendments thereto;

24 (c) all sales of tangible personal property or services, including the
25 renting and leasing of tangible personal property, purchased directly by a
26 public or private elementary or secondary school or public or private
27 nonprofit educational institution and used primarily by such school or
28 institution for nonsectarian programs and activities provided or sponsored
29 by such school or institution or in the erection, repair or enlargement of
30 buildings to be used for such purposes. The exemption herein provided
31 shall not apply to erection, construction, repair, enlargement or equipment
32 of buildings used primarily for human habitation;

33 (d) sales of aircraft including remanufactured and modified aircraft
34 sold to persons using directly or through an authorized agent such aircraft
35 as certified or licensed carriers of persons or property in interstate or
36 foreign commerce under authority of the laws of the United States or any
37 foreign government or sold to any foreign government or agency or
38 instrumentality of such foreign government and all sales of aircraft for use
39 outside of the United States and sales of aircraft repair, modification and
40 replacement parts and sales of services employed in the remanufacture,
41 modification and repair of aircraft;

42 (e) all rentals of nonsectarian textbooks by public or private
43 elementary or secondary schools;

1 (f) any motor vehicle, semitrailer or pole trailer, as such terms are
2 defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and
3 delivered in this state to a bona fide resident of another state, which motor
4 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
5 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
6 remain in this state more than 10 days;

7 (g) all isolated or occasional sales of tangible personal property,
8 services, substances or things;

9 (h) all sales of tangible personal property which become an ingredient
10 or component part of tangible personal property or services produced,
11 manufactured or compounded for ultimate sale at retail within or without
12 the state of Kansas; and any such producer, manufacturer or compounder
13 may obtain from the director of taxation and furnish to the supplier an
14 exemption certificate number for tangible personal property for use as an
15 ingredient or component part of the property or services produced,
16 manufactured or compounded;

17 (i) all sales of tangible personal property which are consumed in the
18 production, manufacture, processing, mining, drilling, refining or
19 compounding of tangible personal property, the treating of by-products or
20 wastes derived from any such production process, the providing of
21 services or the irrigation of crops for ultimate sale at retail within or
22 without the state of Kansas; and any purchaser of such property may
23 obtain from the director of taxation and furnish to the supplier an
24 exemption certificate number for tangible personal property for
25 consumption in such production, manufacture, processing, mining,
26 drilling, refining, compounding, treating, irrigation and in providing such
27 services;

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

34 (k) all sales of farm machinery and equipment or aquaculture
35 machinery and equipment, repair and replacement parts therefor and
36 services performed in the repair and maintenance of such machinery and
37 equipment. For the purposes of this subsection, the term "farm machinery
38 and equipment or aquaculture machinery and equipment" shall include a
39 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
40 thereto, and is equipped with a bed or cargo box for hauling materials, and
41 shall also include machinery and equipment used in the operation of
42 Christmas tree farming but shall not include any passenger vehicle, truck,
43 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as

1 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
2 machinery and equipment" includes precision farming equipment that is
3 portable or is installed or purchased to be installed on farm machinery and
4 equipment. "Precision farming equipment" includes the following items
5 used only in computer-assisted farming, ranching or aquaculture
6 production operations: Soil testing sensors, yield monitors, computers,
7 monitors, software, global positioning and mapping systems, guiding
8 systems, modems, data communications equipment and any necessary
9 mounting hardware, wiring and antennas. Each purchaser of farm
10 machinery and equipment or aquaculture machinery and equipment
11 exempted herein must certify in writing on the copy of the invoice or sales
12 ticket to be retained by the seller that the farm machinery and equipment
13 or aquaculture machinery and equipment purchased will be used only in
14 farming, ranching or aquaculture production. Farming or ranching shall
15 include the operation of a feedlot and farm and ranch work for hire and the
16 operation of a nursery;

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

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

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

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

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

34 (2) For purposes of this subsection:

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

1 control operations, if any;

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

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

16 (D) "manufacturing or processing business" means a business that
17 utilizes an integrated production operation to manufacture, process,
18 fabricate, finish, or assemble items for wholesale and retail distribution as
19 part of what is commonly regarded by the general public as an industrial
20 manufacturing or processing operation or an agricultural commodity
21 processing operation. (i) Industrial manufacturing or processing operations
22 include, by way of illustration, but not of limitation, the fabrication of
23 automobiles, airplanes, machinery or transportation equipment, the
24 fabrication of metal, plastic, wood, or paper products, electricity power
25 generation, water treatment, petroleum refining, chemical production,
26 wholesale bottling, newspaper printing, ready mixed concrete production,
27 and the remanufacturing of used parts for wholesale or retail sale. Such
28 processing operations shall include operations at an oil well, gas well,
29 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
30 sand or gravel that has been extracted from the earth is cleaned, separated,
31 crushed, ground, milled, screened, washed, or otherwise treated or
32 prepared before its transmission to a refinery or before any other wholesale
33 or retail distribution. (ii) Agricultural commodity processing operations
34 include, by way of illustration, but not of limitation, meat packing, poultry
35 slaughtering and dressing, processing and packaging farm and dairy
36 products in sealed containers for wholesale and retail distribution, feed
37 grinding, grain milling, frozen food processing, and grain handling,
38 cleaning, blending, fumigation, drying and aeration operations engaged in
39 by grain elevators or other grain storage facilities. (iii) Manufacturing or
40 processing businesses do not include, by way of illustration, but not of
41 limitation, nonindustrial businesses whose operations are primarily retail
42 and that produce or process tangible personal property as an incidental part
43 of conducting the retail business, such as retailers who bake, cook or

1 prepare food products in the regular course of their retail trade, grocery
2 stores, meat lockers and meat markets that butcher or dress livestock or
3 poultry in the regular course of their retail trade, contractors who alter,
4 service, repair or improve real property, and retail businesses that clean,
5 service or refurbish and repair tangible personal property for its owner;

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

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

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

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

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

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

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

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

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

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

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

41 (I) to transmit or transport electricity, coke, gas, water, steam or
42 similar substances used in production operations from the point of
43 generation, if produced by the manufacturer or processor at the plant site,

1 to that manufacturer's production operation; or, if purchased or delivered
2 from offsite, from the point where the substance enters the site of the plant
3 or facility to that manufacturer's production operations;

4 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil,
5 solvents or other substances that are used in production operations;

6 (K) to provide and control an environment required to maintain
7 certain levels of air quality, humidity or temperature in special and limited
8 areas of the plant or facility, where such regulation of temperature or
9 humidity is part of and essential to the production process;

10 (L) to treat, transport or store waste or other byproducts of production
11 operations at the plant or facility; or

12 (M) to control pollution at the plant or facility where the pollution is
13 produced by the manufacturing or processing operation.

14 (4) The following machinery, equipment and materials shall be
15 deemed to be exempt even though it may not otherwise qualify as
16 machinery and equipment used as an integral or essential part of an
17 integrated production operation: (A) Computers and related peripheral
18 equipment that are utilized by a manufacturing or processing business for
19 engineering of the finished product or for research and development or
20 product design; (B) machinery and equipment that is utilized by a
21 manufacturing or processing business to manufacture or rebuild tangible
22 personal property that is used in manufacturing or processing operations,
23 including tools, dies, molds, forms and other parts of qualifying machinery
24 and equipment; (C) portable plants for aggregate concrete, bulk cement
25 and asphalt, including cement mixing drums to be attached to a motor
26 vehicle; (D) industrial fixtures, devices, support facilities and special
27 foundations necessary for manufacturing and production operations, and
28 materials and other tangible personal property sold for the purpose of
29 fabricating such fixtures, devices, facilities and foundations. An exemption
30 certificate for such purchases shall be signed by the manufacturer or
31 processor. If the fabricator purchases such material, the fabricator shall
32 also sign the exemption certificate; and (E) a manufacturing or processing
33 business' laboratory equipment that is not located at the plant or facility,
34 but that would otherwise qualify for exemption under subsection (3)(E).

35 (5) "Machinery and equipment used as an integral or essential part of
36 an integrated production operation" shall not include:

37 (A) Machinery and equipment used for nonproduction purposes,
38 including, but not limited to, machinery and equipment used for plant
39 security, fire prevention, first aid, accounting, administration, record
40 keeping, advertising, marketing, sales or other related activities, plant
41 cleaning, plant communications, and employee work scheduling;

42 (B) machinery, equipment and tools used primarily in maintaining
43 and repairing any type of machinery and equipment or the building and

1 plant;

2 (C) transportation, transmission and distribution equipment not
3 primarily used in a production, warehousing or material handling
4 operation at the plant or facility, including the means of conveyance of
5 natural gas, electricity, oil or water, and equipment related thereto, located
6 outside the plant or facility;

7 (D) office machines and equipment, including computers and related
8 peripheral equipment not used directly and primarily to control or measure
9 the manufacturing process;

10 (E) furniture and other furnishings;

11 (F) buildings, other than exempt machinery and equipment that are
12 permanently affixed to or become a physical part of the building, and any
13 other part of real estate that is not otherwise exempt;

14 (G) building fixtures that are not integral to the manufacturing
15 operation, such as utility systems for heating, ventilation, air conditioning,
16 communications, plumbing or electrical;

17 (H) machinery and equipment used for general plant heating, cooling
18 and lighting;

19 (I) motor vehicles that are registered for operation on public
20 highways; or

21 (J) employee apparel, except safety and protective apparel that is
22 purchased by an employer and furnished gratuitously to employees who
23 are involved in production or research activities.

24 (6) Paragraphs (3) and (5) shall not be construed as exclusive listings
25 of the machinery and equipment that qualify or do not qualify as an
26 integral or essential part of an integrated production operation. When
27 machinery or equipment is used as an integral or essential part of
28 production operations part of the time and for nonproduction purposes at
29 other times, the primary use of the machinery or equipment shall
30 determine whether or not such machinery or equipment qualifies for
31 exemption.

32 (7) The secretary of revenue shall adopt rules and regulations
33 necessary to administer the provisions of this subsection;

34 (o) all sales of seeds and tree seedlings; fertilizers, insecticides,
35 herbicides, germicides, pesticides and fungicides; and services, purchased
36 and used for the purpose of producing plants in order to prevent soil
37 erosion on land devoted to agricultural use;

38 (p) all sales of materials and services purchased by any class II or III
39 railroad as classified by the federal surface transportation board for the
40 construction, renovation, repair or replacement of class II or III railroad
41 track and facilities used directly in interstate commerce. In the event any
42 such track or facility for which materials and services were purchased
43 sales tax exempt is not operational for five years succeeding the allowance

1 of such exemption, the total amount of sales tax which would have been
2 payable except for the operation of this subsection shall be recouped in
3 accordance with rules and regulations adopted for such purpose by the
4 secretary of revenue; and

5 (q) sales of digital goods, digital codes and subscriptions to digital
6 goods, to a purchaser who is a personal consumer, including sales of the
7 right of permanent use granted by the seller and sales with less than the
8 right of permanent use granted by the seller, and including sales when such
9 use is conditional upon continued payment from the purchaser and when
10 such use is not conditional upon continued payment from the purchaser. As
11 used in this subsection:

12 (A) "Digital audio works" means works that result from the fixation
13 of a series of musical, spoken or other sounds, including ringtones;

14 (B) "digital audio-visual works" means a series of related images
15 which, when shown in succession, impart an impression of motion,
16 together with accompanying sounds, if any;

17 (C) "digital books" means works that are generally recognized in the
18 ordinary and usual sense as books;

19 (D) "digital code" means a code, which provides a purchaser with a
20 right to obtain one or more products transferred electronically from within
21 one or more product categories having the same tax treatment. A digital
22 code may be obtained by any means, including email or by tangible means
23 regardless of its designation as song code, video code or book code;

24 (E) "digital goods" means sounds, images, data, facts or information,
25 or any combination thereof, transferred electronically, including, but not
26 limited to, specified digital products and other products transferred
27 electronically not included within the definition of specified digital
28 products; "digital goods" does not include telecommunications services as
29 defined in K.S.A. 79-3602, and amendments thereto, ancillary services as
30 defined in K.S.A. 79-3602, and amendments thereto, or computer software
31 as defined in K.S.A. 79-3602, and amendments thereto;

32 (F) "electronically transferred" means obtained by the purchaser by
33 means other than tangible storage media;

34 (G) "permanent" means perpetual or for an indefinite or unspecified
35 length of time. A right of permanent use is presumed to have been granted
36 unless the agreement between the seller and the purchaser specifies or the
37 circumstances surrounding the transaction suggest or indicate that the right
38 to use terminates on the occurrence of a condition subsequent;

39 (H) "personal consumer" includes any person other than a person who
40 receives by contract a product transferred electronically for further
41 commercial broadcast, rebroadcast, transmission, retransmission,
42 licensing, relicensing, distribution, redistribution or exhibition of the
43 product, in whole or in part, to another person or persons. A person that

1 purchases products transferred electronically or the code for specified
2 digital products for the purpose of giving away such products or code shall
3 not be considered to have engaged in the distribution or redistribution of
4 such products or code and shall be treated as an end user;

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

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

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

14 (L) "person" means a natural person.

15 New Sec. 7. Each retailer or provider shall remit electronically to the
16 department of revenue not later than the 20th day of each month the total
17 amount of Kansas personal consumption taxes collected and remitted by
18 such retailer or provider during the previous calendar month. A retailer
19 who timely remits to the department of revenue pursuant to the provisions
20 of this section may retain 0.25% of such total remittance. Such 0.25%
21 retained by such retailer or provider shall serve to compensate such retailer
22 or provider for collecting and remitting the Kansas personal consumption
23 tax on behalf of and for the state of Kansas. The amount collected and
24 remitted and the amount retained by such retailer or provider shall be
25 shown on the monthly report. Generally accepted accounting procedures
26 (GAAP) shall apply. Such retailer or provider shall be subject to audit at
27 any time by the department of revenue.

28 New Sec. 8. (a) Each Kansas resident taxpayer having a valid social
29 security number shall receive a monthly family consumption allowance to
30 be distributed by the Kansas department of revenue, on or before the first
31 day of each month. Such family consumption allowance shall be
32 determined annually and be equal to the product of the rate of
33 consumption tax as provided in section 2, and amendments thereto, and $\frac{1}{12}$
34 of the annual poverty guidelines established in the federal register by the
35 U.S. department of health and human services pursuant to 42 U.S.C. §
36 9902(2), as amended.

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

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

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

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

5 (4) beginning in 2015, the payee shall file electronically a regular
6 yearly report with the department of revenue every September, but no later
7 than September 30, certifying the name and valid social security number
8 of each member residing in the same dwelling unit. Whenever the payee,
9 number, or identities of any members of the household change, the payee
10 must immediately notify the department of revenue, and submit
11 electronically a revised report within two weeks or less; and

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

16 (c) The requirements of paragraphs (3) and (4), as they relate to the
17 electronic transmissions or registered accounts at licensed financial
18 institutions may be waived by the secretary of revenue if the payee
19 demonstrates a hardship in complying with those provisions.

20 (d) As used in this section, (1) "household" means a payee, a payee
21 and spouse who occupy the household dwelling or a payee and one or
22 more individuals not related as husband and wife who together share the
23 household dwelling; and

24 (2) "resident" means a natural person who is domiciled in this state. A
25 natural person who spends in the aggregate more than six months of the
26 taxable year within this state shall be presumed to be a resident for
27 purposes of this act in absence of proof to the contrary. A nonresident
28 individual means an individual other than a resident individual.

29 (e) The secretary of revenue shall adopt rules and regulations
30 necessary to administer the provisions of this section.

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

37 New Sec. 10. (a) Except as otherwise provided, it shall be unlawful
38 for any person to engage in the business of selling goods at retail or
39 furnishing taxable services in this state without a registration certificate
40 from the director of taxation. Application for such certificate shall be made
41 to the director upon forms furnished by the director, and shall state the
42 name of the applicant, the address or addresses at which the applicant
43 proposes to engage in such business, and the character of such business.

1 Utilities taxable under this act shall not be required to register but shall
2 comply with all other provisions of this act. The taxpayer may be
3 registered by an agent. Such appointment of the agent by the taxpayer shall
4 be in writing and submitted to the director. The taxpayer shall be issued a
5 registration certificate to engage in the business for which application is
6 made unless the applicant at the time of making such application owes any
7 tax, penalty or interest, and in such case, before a registration certificate is
8 issued, the director of taxation shall require the applicant to pay the
9 amount owed.

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

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

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

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

35 New Sec. 11. (a) Every person engaged in the business of selling
36 goods at retail or furnishing services taxable in this state, shall keep
37 records and books of all such sales, together with invoices, bills of lading,
38 sales records, copies of bills of sale and other pertinent papers and
39 documents. Such books and records and other papers and documents shall,
40 at all times during business hours of the day, be available for and subject to
41 inspection by the director, or the director's duly authorized agents and
42 employees, for a period of three years from the last day of the calendar
43 year or of the fiscal year of the retailer, whichever comes later, to which

1 the records pertain. Such records shall be preserved during the entire
2 period during which they are subject to inspection by the director, unless
3 the director in writing previously authorizes their disposal. Any person
4 selling goods or furnishing taxable services shall be prohibited from
5 asserting that any sales are exempt from taxation unless the retailer has in
6 the retailer's possession a properly executed exemption certificate provided
7 by the consumer claiming the exemption, except as follows: (1) A retailer
8 is relieved of liability for tax otherwise applicable if the retailer obtains a
9 fully completed exemption certificate or captures the relevant data
10 elements required by the director within 90 days subsequent to the date of
11 the sale; or (2) if the retailer has not obtained an exemption certificate or
12 all relevant data elements, the retailer, within 120 days subsequent to a
13 request for substantiation by the director, either may obtain a fully
14 completed exemption certificate from the purchaser, taken in good faith
15 which meets the requirements specified in this subsection, or obtain other
16 information establishing that the transaction was not subject to tax.
17 Otherwise, the sales shall be deemed to be taxable sales under this act. The
18 seller shall obtain an exemption certificate that claims an exemption that
19 was authorized pursuant to Kansas law on the date of the transaction in the
20 jurisdiction where the transaction is sourced pursuant to law, could be
21 applicable to the item being purchased and is reasonable for the
22 purchaser's type of business. If the seller obtains an exemption certificate
23 or other information as described in this subsection, the seller is relieved of
24 any liability for the tax on the transaction, unless it is discovered through
25 the audit process that the seller had knowledge or had reason to know at
26 the time such information was provided that the information relating to the
27 exemption claimed was materially false or the seller otherwise knowingly
28 participated in activity intended to purposefully evade the tax that is
29 properly due on the transaction, and it must be established that the seller
30 had knowledge or had reason to know at the time the information was
31 provided that the information was materially false.

32 (b) The amount of tax imposed by this act is to be assessed within
33 three years after the return is filed, and no proceedings in court for the
34 collection of such taxes shall begin after the expiration of such period. In
35 the case of a false or fraudulent return with intent to evade tax, the tax may
36 be assessed or a proceeding in court for collection of such tax may begin at
37 any time within two years from the discovery of such fraud. No
38 assessment shall be made for any period preceding the date of registration
39 of the retailer by more than three years, except in cases of fraud. No refund
40 or credit shall be allowed by the director after three years from the due
41 date of the return for the reporting period unless before the expiration of
42 such period a claim is filed by the taxpayer. For all mailed returns,
43 including refund claims, each return or refund claim shall be presumed to

1 have been filed with the department on the postmark date of such return or
2 refund claim or if such date is illegible, the date three days prior to the date
3 such return or refund claim is received.

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

14 (d) Interest at the rate prescribed by K.S.A. 79-2968, and
15 amendments thereto, shall be allowed on any overpayment of tax
16 computed from the filing date of the return claiming the refund, except that
17 no interest shall be allowed on any such refund if the same is paid within
18 120 days after the filing date of the return claiming the refund or the date
19 of payment, whichever is later.

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

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

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

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

1 succeeding that in which such person acquired such business or property.

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

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

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

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

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

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

41 (e) Whenever the secretary or the secretary's designee determines that
42 the failure of the taxpayer to comply with the provisions of subsections (a)
43 and (b) was due to reasonable causes, the secretary or the secretary's

1 designee may waive or reduce any of the penalties and may reduce the
2 interest rate to the underpayment rate prescribed and determined for the
3 applicable period under section 6621 of the federal internal revenue code
4 upon making a record of the reasons.

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

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

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

25 New Sec. 18. Whenever any taxpayer liable to pay any tax refuses or
26 neglects to pay the tax, the amount, including any interest or penalty, shall
27 be collected in the following manner. The secretary of revenue or the
28 secretary's designee shall issue a warrant under the hand of the secretary or
29 the secretary's designee and official seal directed to the sheriff of any
30 county of the state commanding the sheriff to levy upon and sell the real
31 and personal property of the taxpayer found within the sheriff's county to
32 satisfy the tax, including penalty and interest, and the cost of executing the
33 warrant and to return such warrant to the secretary or the secretary's
34 designee and pay to the secretary or the secretary's designee the money
35 collected by virtue thereof not more than 90 days from the date of the
36 warrant. Firearms seized may be appraised and disposed of in the same
37 manner prescribed in K.S.A. 79-5212, and amendments thereto. The
38 sheriff shall, within five days after the receipt of the warrant, file with the
39 clerk of the district court of the county a copy, and the clerk shall enter in
40 the appearance docket the name of the taxpayer mentioned in the warrant,
41 the amount of the tax or portion of it, interest and penalties for which the
42 warrant is issued and the date such copy is filed and note the taxpayer's
43 name in the general index. No fee shall be charged for either such entry.

1 The amount of such warrant so docketed shall thereupon become a lien
2 upon the title to, and interest in, the real property of the taxpayer against
3 whom it is issued. The sheriff shall proceed in the same manner and with
4 the same effect as prescribed by law with respect to executions issued
5 against property upon judgments of a court of record, and shall be entitled
6 to the same fees for services.

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

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

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

1 shall appoint agents and employees for the enforcement and administration
2 of this act.

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

5 New Sec. 20. For the purposes of more efficiently securing the
6 payment, collection and accounting for the taxes provided for under this
7 act, agreements between competing retailers or the adoption of appropriate
8 rules and regulations by organizations or associations of retailers to
9 provide uniform methods for adding and collecting the full amount of the
10 tax imposed by this act, or an amount equal as nearly as possible or
11 practicable to the average equivalent thereof, and which do not involve
12 price-fixing agreements otherwise unlawful, and which shall first have the
13 approval of the director of taxation, are expressly authorized and shall be
14 held not to be in violation of any antitrust laws of this state. It shall be the
15 duty of the director of taxation to cooperate with such retailers,
16 organizations or associations in formulating such agreements, rules and
17 regulations. The secretary of revenue shall adopt rules and regulations for
18 adding and collecting such tax, or an amount equal as nearly as possible or
19 practicable to the average equivalent, by providing different methods
20 applying uniformly to retailers within the same general classification for
21 the purpose of enabling such retailers to add and collect, as far as
22 practicable, the amount of such tax.

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

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

1 (c) On January 1, 2015, and thereafter, the state treasurer shall credit
2 18.421% of the revenue collected and received from the tax imposed by
3 this act, at the rate of 5.7%, and deposited as provided by subsection (a),
4 exclusive of amounts credited pursuant to subsection (d), in the state
5 highway fund.

6 (d) The state treasurer shall credit all revenue collected or received
7 from the tax imposed by this act, as certified by the director, from
8 taxpayers doing business within that portion of a STAR bond project
9 district occupied by a STAR bond project or taxpayers doing business with
10 such entity financed by a STAR bond project as defined in K.S.A. 2013
11 Supp. 12-17,162, and amendments thereto, that was determined by the
12 secretary of commerce to be of statewide as well as local importance or
13 will create a major tourism area for the state or the project was designated
14 as a STAR bond project as defined in K.S.A. 2013 Supp. 12-17,162, and
15 amendments thereto, to the city bond finance fund, which fund is hereby
16 created. The provisions of this subsection shall expire when the total of all
17 amounts credited hereunder and under subsection (d) of K.S.A. 79-3710,
18 and amendments thereto, is sufficient to retire the special obligation bonds
19 issued for the purpose of financing all or a portion of the costs of such
20 STAR bond project.

21 (e) All revenue certified by the director of taxation as having been
22 collected or received from the tax imposed on the sale or furnishing of gas,
23 water, electricity and heat for use or consumption within the intermodal
24 facility district described in this subsection, shall be credited by the state
25 treasurer to the state highway fund. Such revenue may be transferred by
26 the secretary of transportation to the rail service improvement fund
27 pursuant to law. The provisions of this subsection shall take effect upon
28 certification by the secretary of transportation that a notice to proceed has
29 been received for the construction of the improvements within the
30 intermodal facility district, but not later than December 31, 2010, and shall
31 expire when the secretary of revenue determines that the total of all
32 amounts credited hereunder and pursuant to subsection (e) of K.S.A. 79-
33 3710, and amendments thereto, is equal to \$53,300,000, but not later than
34 December 31, 2045. Thereafter, all revenues shall be collected and
35 distributed in accordance with applicable law. For all tax reporting periods
36 during which the provisions of this subsection are in effect, none of the
37 exemptions contained in section 4, and amendments thereto, shall apply to
38 the sale or furnishing of any gas, water, electricity and heat for use or
39 consumption within the intermodal facility district. As used in this
40 subsection, "intermodal facility district" shall consist of an intermodal
41 transportation area as defined by subsection (oo) of K.S.A. 12-1770a, and
42 amendments thereto, located in Johnson county within the polygonal-
43 shaped area having waverly road as the eastern boundary, 191st street as

1 the southern boundary, four corners road as the western boundary, and
2 highway 56 as the northern boundary, and the polygonal-shaped area
3 having poplar road as the eastern boundary, 183rd street as the southern
4 boundary, waverly road as the western boundary, and the BNSF mainline
5 track as the northern boundary, that includes capital investment in an
6 amount exceeding \$150 million for the construction of an intermodal
7 facility to handle the transfer, storage and distribution of freight through
8 railway and trucking operations.

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

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

33 (c) The exemption certificate shall be substantially in such form as
34 the director may prescribe. The seller shall use the standard form for
35 claiming an exemption electronically as adopted by the director. A seller
36 may require a purchaser to provide a copy of the purchaser's tax
37 registration certificate with a resale certificate as a condition for honoring
38 the purchaser's resale exemption claim, except that in the case of drop
39 shipment sales into this state, the third party vendor may claim a resale
40 exemption based on an exemption certificate provided by its customer, re-
41 seller, or any other information acceptable to the secretary available to the
42 third party vendor evidencing qualification for a resale exemption,
43 regardless of whether the customer, re-seller, is registered to collect and

1 remit consumption and compensating consumption tax in this state. A
2 purchaser is not required to provide a signature to claim an exemption
3 from tax unless a paper exemption certificate is used. A seller is relieved of
4 liability for the tax otherwise applicable if it obtains a blanket exemption
5 certificate for a purchaser with which the seller has a recurring business
6 relationship. Such blanket certificate need not be renewed or updated by
7 the seller for exemption certificate information or data elements when
8 there is a recurring business relationship between the buyer and seller. For
9 purposes of this subsection, a recurring business relationship exists when a
10 period of no more than 12 months elapses between sales transactions.

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

20 (e) Any person who issues a resale certificate or other exemption
21 certificate in order to unlawfully avoid payment of tax for business or
22 personal gain shall be guilty of a misdemeanor and upon conviction shall
23 be punished by a fine of not more than \$1,000 or imprisonment for not
24 more than one year, or by both. In addition, if the director determines that
25 a person issued a resale certificate in order to unlawfully avoid payment of
26 tax for business or personal gain, the director shall increase any penalty
27 that is due from the person under section 17, and amendments thereto, by
28 \$250 or 10 times the tax due, whichever is greater, on each transaction
29 where the misuse of a resale certificate occurred.

30 (f) Exemption certificates issued by an entity claiming a specific
31 exemption under section 6, and amendments thereto, based on the status of
32 the entity, shall bear the name, address of the entity and identification
33 number issued to the entity pursuant to K.S.A. 2013 Supp. 79-3692, and
34 amendments thereto. Such certificate shall be signed by an authorized
35 person of the nonprofit entity, if in paper form, and contain the tax
36 identification number of the entity. The certificate shall be substantially in
37 such form as the director may prescribe. A seller may require that
38 payments be made on an exempt entity's check, warrant, voucher or
39 charged to the entity's account as a condition for honoring the entity's
40 exemption claim.

41 (g) It shall be the duty of every person who purchases tangible
42 personal property or services that are taxable under this act to pay the full
43 amount of tax that is lawfully due to the retailer making the sale. Any

1 person who willfully and intentionally refuses to pay such tax to the
2 retailer shall be guilty of a misdemeanor and upon conviction shall be
3 punished and fined as provided by subsection (g) of section 17, and
4 amendments thereto.

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

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

37 New Sec. 24. (a) Any individual who is responsible for collection or
38 payment of tax or control, receipt, custody or disposal of funds due and
39 owing under this act who willfully fails to collect such tax, or account for
40 and pay over such tax, or attempts in any manner to evade or defeat such
41 tax or the payment thereof shall be personally liable for the total amount of
42 the tax evaded, or not collected, or not accounted for and paid over,
43 together with any interest and penalty imposed thereon. The provisions of

1 this section shall apply regardless of the: (1) Relationship with the retailer
2 held by such individual; (2) form under which the retailer conducts
3 business, whether a sole proprietorship, partnership or corporation; or (3)
4 dissolution of the business. As used in this section, "willfully" has the
5 same meaning as such term has for federal tax purposes in 26 U.S.C. §
6 6672.

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

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

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

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

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

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

34 (1) One member of the committee on taxation of the house of
35 representatives appointed by the speaker of the house of representatives;

36 (2) one member of the committee on assessment and taxation of the
37 senate appointed by the president of the senate;

38 (3) one member of the committee on appropriations of the house of
39 representatives appointed by the speaker of the house of representatives;

40 (4) one member of the committee on ways and means of the senate
41 appointed by the president of the senate;

42 (5) the secretary of revenue;

43 (6) the state treasurer; and

1 (7) the secretary of state.

2 (c) The committee shall select a chairperson.

3 (d) The committee shall make a report of such recommendations
4 including any necessary legislation to effectuate such recommendations to
5 the legislature prior to January 1, 2015.

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

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

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

28 Sec. 28. K.S.A. 2013 Supp. 79-3702 is hereby amended to read as
29 follows: 79-3702. For the purposes of this act: (a) "Purchase price" means
30 the consideration paid or given or contracted to be paid or given by any
31 person to the seller of an article of tangible personal property for the article
32 purchased. The term shall include, in addition to the consideration paid or
33 given or contracted to be paid or given, the actual cost of transportation
34 from the place where the article was purchased to the person using the
35 same in this state. If a cash discount is allowed and taken on the sale it
36 shall be deducted in arriving at the purchase price.

37 (b) The meaning ascribed to words and phrases in K.S.A. 79-3602,
38 and amendments thereto, insofar as is practicable, shall be applicable
39 herein unless otherwise provided. The provisions of K.S.A. 79-3601 to 79-
40 3625, inclusive *et seq.*, 79-3650, K.S.A. 2013 Supp. 79-3693 and 79-3694,
41 and amendments thereto, relating to enforcement, collection and
42 administration, insofar as practicable, shall have full force and effect with
43 respect to taxes imposed under the provisions of this act.

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

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

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

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

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

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

40 (B) any retailer utilizing an employee, independent contractor, agent,
41 representative, salesperson, canvasser, solicitor or other person operating
42 in this state either permanently or temporarily, for the purpose of selling,
43 delivering, installing, assembling, servicing, repairing, soliciting sales or

1 the taking of orders for tangible personal property;

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

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

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

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

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

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

20 (i) Sells the same or a substantially similar line of products as the
21 retailer and does so under the same or a substantially similar business
22 name;

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

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

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

30 (v) facilitates the retailer's delivery of property to customers in the
31 state by allowing the retailer's customers to pick up property sold by the
32 retailer at an office, distribution facility, warehouse, storage place or
33 similar place of business maintained by the person in the state;

34 (vi) has a franchisee or licensee operating under its trade name if the
35 franchisee or the licensee is required to collect the tax under the Kansas
36 retailers' sales tax act; or

37 (vii) conducts any other activities in the state that are significantly
38 associated with the retailer's ability to establish and maintain a market in
39 the state for the retailer's sales.

40 (B) Any affiliated person conducting activities in this state described
41 in subparagraph (A) or (C) has nexus with this state sufficient to require
42 such person to collect and remit taxes under the provisions of the
43 constitution and laws of the United States if such person were making

1 taxable retail sales of tangible personal property or services in this state.

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

25 (D) The presumptions in subparagraphs (A) and (B) may be rebutted
26 by demonstrating that the activities of the person or affiliated person in the
27 state are not significantly associated with the retailer's ability to establish
28 or maintain a market in this state for the retailer's sales.

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

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

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

41 Sec. 29. K.S.A. 2013 Supp. 79-32,110 is hereby amended to read as
42 follows: 79-32,110.(a) *Resident Individuals*. Except as otherwise provided
43 by subsection (a) of K.S.A. 79-3220, and amendments thereto, a tax is

1 hereby imposed upon the Kansas taxable income of every resident
 2 individual, which tax shall be computed in accordance with the following
 3 tax schedules:

4 (1) *Married individuals filing joint returns.*

5 (A) For tax year 2012:

6 If the taxable income is:	The tax is:
7 Not over \$30,000.....	3.5% of Kansas taxable income
8 Over \$30,000 but not over	\$1,050 plus 6.25% of excess
9 \$60,000	over \$30,000
10 Over \$60,000.....	\$2,925 plus 6.45% of excess
11	over \$60,000

12 (B) For tax year 2013:

13 If the taxable income is:	The tax is:
14 Not over \$30,000.....	3.0% of Kansas taxable income
15 Over \$30,000.....	\$900 plus 4.9% of excess over
16	\$30,000

17 (C) For tax year 2014:

18 If the taxable income is:	The tax is:
19 Not over \$30,000.....	2.7% of Kansas taxable income
20 Over \$30,000.....	\$810 plus 4.8% of excess over
21	\$30,000

22 ~~(D) For tax year 2015:~~

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

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

28 If the taxable income is:	The tax is:
29 Not over \$30,000.....	2.4% of Kansas taxable income
30 Over \$30,000.....	\$720 plus 4.6% of excess over
31 _____	\$30,000

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

33 If the taxable income is:	The tax is:
34 Not over \$30,000.....	2.3% of Kansas taxable income
35 Over \$30,000.....	\$690 plus 4.6% of excess over
36 _____	\$30,000

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

38 If the taxable income is:	The tax is:
39 Not over \$30,000.....	2.3% of Kansas taxable income
40 Over \$30,000.....	\$690 plus 3.9% of excess over
41 _____	\$30,000

42 (2) *All other individuals.*

43 (A) For tax year 2012:

1	If the taxable income is:	The tax is:
2	Not over \$15,000.....	3.5% of Kansas taxable income
3	Over \$15,000 but not over	\$525 plus 6.25% of excess
4	\$30,000.....	over \$15,000
5	Over \$30,000.....	\$1,462.50 plus 6.45% of excess
6		over \$30,000

7 (B) For tax year 2013:

8	If the taxable income is:	The tax is:
9	Not over \$15,000.....	3.0% of Kansas taxable income
10	Over \$15,000.....	\$450 plus 4.9% of excess over
11		\$15,000

12 (C) For tax year 2014:

13	If the taxable income is:	The tax is:
14	Not over \$15,000.....	2.7% of Kansas taxable income
15	Over \$15,000.....	\$405 plus 4.8% of excess over
16		\$15,000

17 ~~(D) For tax year 2015:~~

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

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

23	If the taxable income is:	The tax is:
24	Not over \$15,000.....	2.4% of Kansas taxable income
25	Over \$15,000.....	\$360 plus 4.6% of excess over
26	_____	\$15,000

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

28	If the taxable income is:	The tax is:
29	Not over \$15,000.....	2.3% of Kansas taxable income
30	Over \$15,000.....	\$345 plus 4.6% of excess over
31	_____	\$15,000

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

33	If the taxable income is:	The tax is:
34	Not over \$15,000.....	2.3% of Kansas taxable income
35	Over \$15,000.....	\$345 plus 3.9% of excess over
36	_____	\$15,000

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

42 ~~(c) *Corporations.* A tax is hereby imposed upon the Kansas taxable~~
 43 ~~income of every corporation doing business within this state or deriving~~

1 income from sources within this state. Such tax shall consist of a normal
2 tax and a surtax and shall be computed as follows:

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

5 (2) (A) ~~for tax year 2008, the surtax shall be in an amount equal to~~
6 ~~3.1% of the Kansas taxable income of such corporation in excess of~~
7 ~~\$50,000;~~

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

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

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

17 (e) ~~Tax rates provided in this section shall be adjusted pursuant to the~~
18 ~~provisions of K.S.A. 2013 Supp. 79-32,269, and amendments thereto.~~

19 New Sec. 30. (a) The provisions of sections 30 through 43, and
20 amendments thereto, shall be known and may be cited as the Kansas
21 compensating consumption tax act.

22 (b) As used in sections 30 through 43, and amendments thereto, "act"
23 means the Kansas compensating consumption tax act.

24 New Sec. 31. There is hereby levied and there shall be collected from
25 every person in this state a compensating consumption tax or excise for the
26 privilege of using, storing, or consuming within this state any article of
27 tangible personal property. Such tax shall be levied and collected in an
28 amount equal to the consideration paid by the taxpayer multiplied by the
29 rate of 5.7%. Within a redevelopment district established pursuant to
30 K.S.A. 74-8921, and amendments thereto, there is hereby levied and there
31 shall be collected and paid an additional tax of 2% until the earlier of: (1)
32 The date the bonds issued to finance or refinance the redevelopment
33 project undertaken in the district have been paid in full; or (2) the final
34 scheduled maturity of the first series of bonds issued to finance the
35 redevelopment project. All property purchased or leased within or without
36 this state and subsequently used, stored or consumed in this state shall be
37 subject to the compensating consumption tax if the same property or
38 transaction would have been subject to the Kansas consumption tax had
39 the transaction been wholly within this state.

40 New Sec. 32. For the purpose of the proper administration of the
41 provisions of this act and to prevent evasion of the tax, evidence that
42 tangible personal property was sold by any person for delivery in this state
43 shall be prima facie evidence that such tangible personal property was sold

1 for use in this state.

2 New Sec. 33. The provisions of this act shall not apply:

3 (a) In respect to the use, storage or consumption of any article of
4 tangible personal property brought into the state of Kansas by a
5 nonresident who is within the state for not to exceed 60 days for such
6 nonresident's use or enjoyment while within the state or by a railroad or
7 public utility for consumption or movement in interstate commerce;

8 (b) in respect to the use, storage or consumption of tangible personal
9 property purchased other than at retail;

10 (c) in respect to the use, storage or consumption of any article of
11 tangible personal property the sale or use of which has already been
12 subjected to a tax equal to or in excess of that imposed by this act, whether
13 under the laws of this state or of some other state of the United States; and

14 (d) in respect to the use, storage or consumption of any article of
15 tangible personal property brought into or used within the state of Kansas
16 if such article of tangible personal property would not have been subject to
17 tax under the provisions of section 1 et seq., and amendments thereto, if
18 purchased within this state.

19 New Sec. 34. If any article of tangible personal property has already
20 been subjected to a tax by this or any other state in respect to its sale or use
21 in an amount less than the tax imposed by the provisions of this act, the
22 provisions of this act shall apply, but at a rate measured by the difference
23 only between the rate fixed in section 31, and amendments thereto, and the
24 rate by which the previous tax upon the sale or use was computed.

25 New Sec. 35. The tax levied under section 31, and amendments
26 thereto, shall be paid by the consumer or user to the retailer and it shall be
27 the duty of each and every retailer to collect from the consumer or user the
28 full amount of the tax imposed by the provisions of this act. Such tax shall
29 be a debt from the consumer or user to the retailer when added to the
30 original purchase price, and shall be recoverable at law in the same manner
31 as other debts. If the tax levied under section 31, and amendments thereto,
32 is not collected by the retailer, then the person using, consuming or storing
33 tangible personal property in this state shall file a return and pay the tax, as
34 required by section 31, and amendments thereto, notwithstanding the
35 foregoing provisions of this section or any other provision of this act.

36 New Sec. 36. It shall be unlawful for any retailer to advertise or hold
37 out, or state to the public, or to any consumer, directly or indirectly, that
38 the tax, or any part thereof, imposed by the provisions of this act, shall be
39 assumed or absorbed by the retailer, or that it shall not be considered as an
40 element in the price to the consumer, or if collected, that it, or any part
41 thereof, shall be refunded.

42 New Sec. 37. Every retailer doing business in this state and making
43 sales of tangible personal property for use, storage or consumption in this

1 state, not exempted under the provisions of this act, at the time of making
2 such sales, whether within or without the state, shall collect the tax
3 imposed by this act from the purchaser, and give the purchaser a receipt.
4 Each such retailer shall list with the director the name and address of all
5 such retailer's agents operating in this state, and the location of any and all
6 such retailer's distribution or sales houses or offices or other places of
7 business in this state.

8 New Sec. 38. The secretary of revenue or the secretary's designee
9 may upon application, authorize the collection of the tax by section 31,
10 and amendments thereto, imposed by any retailer not doing business
11 within this state. Such retailer shall be issued, without charge, a permit to
12 collect such tax in such manner, subject to such regulations and
13 agreements as the secretary shall prescribe. When so authorized, it shall be
14 the duty of such retailer to collect the tax upon all tangible personal
15 property sold for use, storage or consumption within this state, in the same
16 manner and subject to the same requirements as a retailer doing business
17 within this state. Such authority and permit may be canceled when, at any
18 time, the secretary or the secretary's designee considers such tax can be
19 more effectively collected from the person using, storing or consuming
20 such property in this state.

21 New Sec. 39. (a) Each retailer or person subject to the provisions of
22 this act shall make remittances of the tax imposed by section 31, and
23 amendments thereto, and file returns in accordance with the provisions of
24 section 7, and amendments thereto, except that the time schedule for
25 remitting tax and filing returns shall be determined on the basis of calendar
26 year compensating consumption tax liability in lieu of calendar year
27 consumption tax liability. Returns shall show in detail the total quantity of
28 tangible personal property sold by any retailer or used, stored or consumed
29 by any person within the state during the period for which the return is
30 filed subject to the tax herein imposed, and such other information as the
31 director may deem pertinent. The director, upon request and a proper
32 showing of the necessity therefor, may grant an extension of time not to
33 exceed 60 days for making any return and payment. Returns shall be
34 signed by the retailer or such retailer's duly authorized agent, and must be
35 certified by such retailer to be correct.

36 (b) If any taxpayer fails to pay the tax required under the provisions
37 of section 31, and amendments thereto, at the time required by or under the
38 provisions of this section, there shall be added to the unpaid balance of the
39 tax, interest at the rate per month prescribed by subsection (a) of K.S.A.
40 79-2968, and amendments thereto, from the date the tax was due until
41 paid.

42 (c) If any taxpayer fails to file a return or pay the tax if one is due, at
43 the time required by or under the provisions of this act, there shall be

1 added to the tax an additional amount equal to 1% of the unpaid balance of
2 the tax due for each month or fraction thereof during which such failure
3 continues, not exceeding 24% in the aggregate, plus interest at the rate
4 prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto,
5 from the date the tax was due until paid. Notwithstanding the provisions of
6 this subsection, in the event an assessment is issued following a field audit
7 for any period for which a return was filed by the taxpayer and all of the
8 tax was paid pursuant to such return, a penalty shall be imposed for the
9 period included in the assessment in an amount of 1% per month not
10 exceeding 10% of the unpaid balance of tax due shown in the notice of
11 assessment. If after review of a return for any period included in the
12 assessment, the secretary or secretary's designee determines that the
13 underpayment of tax was due to the failure of the taxpayer to make a
14 reasonable attempt to comply with the provisions of this act, such penalty
15 shall be imposed for the period included in the assessment in the amount
16 of 25% of the unpaid balance of tax due.

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

22 (e) Penalty or interest applied under the provisions of subsections (b)
23 and (c) shall be in addition to the penalty added under any other provisions
24 of this section.

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

32 (g) In addition to all other penalties provided by this section, any
33 person who willfully fails to make a return or to pay any tax imposed
34 under this act, or who makes a false or fraudulent return, or who fails to
35 keep any books or records prescribed by this act, or who willfully violates
36 any regulations of the secretary of revenue for the enforcement and
37 administration of this act, or who aids and abets another in attempting to
38 evade the payment of any tax imposed by this act, or who violates any
39 other provision of this act, shall, upon conviction thereof, be fined not less
40 than \$100 nor more than \$1,000, or be imprisoned in the county jail not
41 less than one month nor more than six months, or be both so fined and
42 imprisoned, in the discretion of the court.

43 (h) No penalty assessed hereunder shall be collected if the taxpayer

1 has had the tax abated on appeal, and any penalty collected upon such tax
2 shall be refunded.

3 New Sec. 40. Whenever any taxpayer or person liable to pay any tax
4 provided by this act refuses or neglects to pay such tax, the amount of such
5 tax, including any interest or penalty, shall be collected in the manner
6 provided by section 17, and amendments thereto.

7 New Sec. 41. (a) All revenue collected or received by the director
8 under the provisions of this act shall be remitted to the state treasurer in
9 accordance with the provisions of K.S.A. 75-4215, and amendments
10 thereto. Upon receipt of each such remittance, the state treasurer shall
11 deposit the entire amount in the state treasury, less amounts set apart as
12 provided in subsection (b) and amounts credited as provided in subsections
13 (c), (d) and (e), to the credit of the state general fund.

14 (b) A revolving fund, designated as "compensating consumption tax
15 refund fund" not to exceed \$10,000 shall be set apart and maintained by
16 the director from compensating consumption tax collections and estimated
17 tax collections and held by the state treasurer for prompt payment of all
18 compensating consumption tax refunds. Such fund shall be in such
19 amount, within the limit set by this subsection, as the director shall
20 determine is necessary to meet current refunding requirements under this
21 act.

22 (c) On January 1, 2015, and thereafter, the state treasurer shall credit
23 11.233% of the revenue collected and received from the tax imposed by
24 section 31, and amendments thereto, at the rate of 6.3%, and deposited as
25 provided by subsection (a), exclusive of amounts credited pursuant to
26 subsection (d), in the state highway fund.

27 New Sec. 42. The director of taxation may require any retailer,
28 vendor, user or consumer of tangible personal property, incurring
29 compensating consumption tax liability under this act, prior to engaging in
30 business within the state of Kansas, to register and file such information as
31 the director deems pertinent.

32 New Sec. 43. When, in the judgment of the director of taxation, it is
33 necessary in order to secure the collection of any tax, penalties or interest,
34 due or to become due under this act, the director may require any person
35 subject to such tax to file a bond with the director in such form and amount
36 as the director may prescribe.

37 Sec. 44. K.S.A. 79-3294, 79-3294a and 79-3294b and K.S.A. 2013
38 Supp. 72-6431, 76-6b01, 76-6b04, 79-1107, 79-1108, 79-3295, 79-3296,
39 79-3298, 79-3299, 79-32,100, 79-32,100a, 79-32,100b, 79-32,100c, 79-
40 32,100d, 79-32,100e, 79-32,110, 79-32,269, 79-3603 and 79-3702 are
41 hereby repealed.

42 Sec. 45. This act shall take effect and be in force from and after its
43 publication in the statute book.

