

Journal of the Senate

TWENTY-FIRST DAY

SENATE CHAMBER, TOPEKA, KANSAS
Tuesday, February 9, 2021, 2:30 p.m.

The Senate was called to order by Vice President Rick Wilborn.
The roll was called with 39 senators present.
Senator Estes was excused.
Invocation by Reverend Cecil T. Washington:

“Escaping The Spider’s World Wide Web!”
Proverbs 14:34, Psalm 33:11-12

Heavenly Father, dating back into the mid 1800s, and coming forward, the wisdom shared by many, including some former U.S. Presidents, is that “America is great because she is good, and if she ever ceases to be good, she’ll cease to be great.” It has been said Lord, that our nation will be defeated without a shot being fired; that our defeat will come from us allowing, even inviting, the enemy to gradually and increasingly come through our doors.

Today, and on the second Tuesday of every February, 130 plus countries are recognizing “Safer Internet Day.” Lord, we are being bombarded by a spirit that is denying You. The web, the world wide web, has pushed open our doors. And all kinds of unrighteousness has been slowly creeping in. And like the web of a spider holds its victims until they’re consumed, the world wide web has its hold on Your people.

Lord, Your holy standards of righteousness are being ignored and we are being consumed. Proverbs 14:34 says, Godliness is what makes a nation great, while ungodliness brings disgrace. And Psalm 33:11 says, advice coming from You stands forever; that the purposes of Your loving heart continue to all generations.

So, Lord, give each of us the courage to stand strong for righteousness! Help us to make every day “Safer Internet Day.” Help us to be good! I pray in Jesus Name, Amen!

The Pledge of Allegiance was led by Vice President Wilborn.

INTRODUCTION OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were introduced and read by title:

SB 176, AN ACT concerning home inspectors; enacting the Kansas home inspectors professional competency and financial responsibility act; creating a home inspector registry; establishing the home inspectors registration fee fund, by Committee on Commerce.

SB 177, AN ACT concerning employment security; creating the unemployment

compensation modernization and improvement council; providing for development of a new unemployment insurance information technology system; claimant tax information; website publication of trust fund data; maximum benefit period; charging of employer accounts for benefits paid; employer contribution rate determination and schedules; abolishing the employment security interest assessment fund; crediting employer accounts for fraudulent or erroneous payments; transferring moneys from the state general fund to the unemployment insurance trust fund for improper benefit payments; services performed by petroleum landmen; lessor employment unit employee leasing restrictions; relating to other unemployment trust fund provisions; shared work compensation program; amending K.S.A. 44-758 and K.S.A. 2020 Supp. 44-703, 44-704, 44-710, 44-710a, 44-710b and 44-757 and repealing the existing sections, by Committee on Commerce.

SB 178, AN ACT concerning financial institutions; relating to the state banking code; trust companies; providing for charter conversions; amending K.S.A. 2020 Supp. 9-803, 9-808, 9-809 and 9-1717 and repealing the existing sections, by Committee on Financial Institutions and Insurance.

SB 179, AN ACT concerning days of commemoration; designating February 15 of each year as Susan B. Anthony Day in the state of Kansas, by Senator Pittman.

SB 180, AN ACT concerning sales taxation; relating to exemptions; providing an exemption for certain purchases by disabled veterans of the armed forces of the United States, by Senators Peck, Bowers, Corson, Hilderbrand, Kloos, McGinn, Pittman, Steffen and Thompson.

SB 181, AN ACT creating the elevator safety act; relating to safety standards for elevators; licensure requirements for elevator inspection, installation and repair, duties of the state fire marshal; establishing the elevator safety fee fund, by Committee on Federal and State Affairs.

SB 182, AN ACT concerning campaign finance; requiring electronic filing of reports for state offices; amending K.S.A. 2020 Supp. 25-4148 and repealing the existing section, by Committee on Federal and State Affairs.

SB 183, AN ACT concerning elections; relating to campaign finance; terminating a campaign; requiring disposition of equipment or personal property; amending K.S.A. 2020 Supp. 25-4157a and repealing the existing section, by Committee on Federal and State Affairs.

SB 184, AN ACT concerning elections; relating to advance voting ballots; authorizing permanent advance voting status for any registered voter; amending K.S.A. 2020 Supp. 25-1122 and 25-1122d and repealing the existing sections, by Senator Corson.

SB 185, AN ACT concerning the Kansas department for children and families; relating to the Kansas commission for the deaf and hard of hearing; authorizing such commission to adopt rules and regulations for interpreters and interpreter services; establishing a sign language interpreter registration process and fees relating thereto; providing guidelines for communication access services; amending K.S.A. 75-4355a, 75-4355b, 75-5391, 75-5393 and 75-5397a and repealing the existing sections, by Committee on Education.

SB 186, AN ACT concerning transportation; relating to the secretary of transportation; permitting the secretary of transportation to contract with the Kansas turnpike authority to enforce toll payments; permitting the secretary of transportation to

use tolls to support public transit and other improvements on a toll project; amending K.S.A. 2020 Supp. 68-20,120 and repealing the existing section, by Committee on Transportation.

SB 187, AN ACT concerning consumer protection; relating to terms of service for social media websites; prohibiting censorship of certain speech made via such websites, by Senator Steffen.

SB 188, AN ACT concerning elections; enacting the interstate compact on the agreement among the states to elect the president by national popular vote; amending K.S.A. 25-802 and 25-804 and repealing the existing sections, by Senator Haley.

SB 189, AN ACT concerning workers compensation; relating to use of the fourth edition of the AMA medical guides for the determination of impairment; amending K.S.A. 2020 Supp. 44-510d and 44-510e and repealing the existing sections, by Senator Holland.

SB 190, AN ACT concerning crimes, punishment and criminal procedure; relating to firearms, possession thereof; reducing the underlying felonies for the crime of criminal possession of a weapon by a convicted felon; restoration of right to possess firearms upon expungement of conviction; amending K.S.A. 2020 Supp. 21-6304 and 21-6614 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 191, AN ACT concerning elections; relating to election commissioners; providing for appointment by the board of county commissioners; amending K.S.A. 19-3419 and 19-3422 and repealing the existing sections, by Committee on Transparency and Ethics.

SB 192, AN ACT concerning firearms; relating to certain protection orders; requiring relinquishment of firearms pursuant to such orders; criminal penalties; amending K.S.A. 2020 Supp. 22-3426, 60-3107 and 60-31a06 and repealing the existing sections, by Senators Sykes, Corson, Faust-Goudeau, Francisco, Hawk, Holscher, Pettey and Ware.

SB 193, AN ACT concerning workers compensation; expanding the definition of personal injury to include certain mental injuries arising from physical injury, emotional shock or a series of work-related events; amending K.S.A. 2020 Supp. 44-508 and repealing the existing section, by Senator Holland.

SB 194, AN ACT concerning employment security law; relating to lessor employment units and lessee clients; restrictions on leasing certain employees; amending K.S.A. 44-758 and repealing the existing section, by Committee on Commerce.

SB 195, AN ACT concerning crimes, punishment and criminal procedure; relating to criminal discharge of a firearm; increasing the penalty for violations when a person was present in the dwelling, building, structure or motor vehicle at which the offender discharged a firearm and when a person less than 14 years of age was present in the dwelling, building, structure or motor vehicle at which the offender discharged a firearm; amending K.S.A. 2020 Supp. 21-6308 and 21-6804 and repealing the existing sections, by Senator Haley.

SB 196, AN ACT concerning criminal procedure; relating to restitution; requiring support when offense resulted in the incapacitation or death of a victim who has a minor child or children; amending K.S.A. 2020 Supp. 22-3424 and repealing the existing section, by Senator Haley.

SB 197, AN ACT concerning law enforcement; relating to racial profiling or other biased policing; requiring data collection and reporting thereon; amending K.S.A. 2020 Supp. 22-4606, 22-4610, 22-4611 and 22-4611a and repealing the existing sections, by

Senator Haley.

SB 198, AN ACT concerning law enforcement; enacting the police and citizen protection act; relating to use of body cameras by law enforcement officers; disclosure of recordings under the open records act; amending K.S.A. 2020 Supp. 45-254 and repealing the existing section, by Senator Haley.

REFERENCE OF BILLS AND CONCURRENT RESOLUTIONS

The following bills were referred to Committees as indicated:

Agriculture and Natural Resources: **SB 160**.

Assessment and Taxation: **SB 171**.

Commerce: **SB 161**, **SB 162**, **SB 163**, **SB 164**.

Education: **SB 173**.

Federal and State Affairs: **SB 165**, **SB 166**, **SB 169**.

Judiciary: **SCR 1608**.

Public Health and Welfare: **SB 168**, **SB 170**, **SB 174**, **SB 175**.

Transportation: **SB 167**.

Utilities: **SB 172**.

MESSAGES FROM THE GOVERNOR

November 4, 2020

To The Senate of the State of Kansas

Submitted herewith for confirmation by the Senate is an appointment made by me as the Governor of the State of Kansas, pursuant to law.

LAURA KELLY
Governor

Appraiser, Kansas Board of Tax Appeals: Robert E. Marx, Fairway, (R), pursuant to the authority vested in me by K.S.A. 74-2433 and effective upon the date of confirmation by the Senate, to serve a four-year term, to succeed Devin Sprecker.

On motion of Senator Suellentrop, the Senate recessed until the sound of the gavel.

The Senate met pursuant to recess with Vice President Wilborn in the chair.

COMMITTEE OF THE WHOLE

On motion of Senator Suellentrop, the Senate resolved itself into Committee of the Whole, for consideration of bills on the calendar under the heading of General Orders with Senator Longbine in the chair.

On motion of Senator Longbine the following report was adopted:

SB 58, **SB 70** be passed.

SB 32, **SB 36** be amended by the adoption of the committee amendments, and the bills be passed as amended.

SB 22 be amended by the adoption of the committee amendments, be further by motion of Senator Tyson: on page 1, in line 21, after the first "compensation" by

inserting "or any other type of compensation";

Also on page 1, in the title, in line 7, after "unemployment" by inserting "or other"

SB 22 be further amended by motion of Senator Tyson: on page 1, following line 25, by inserting:

"The department of revenue shall provide a method for any taxpayer subject to the Kansas income tax act to report to the department of revenue whether such taxpayer was a victim of fraud due to identity theft and whether such fraud resulted in the reporting of any income to the federal internal revenue service. The report shall include, but not be limited to, the amount of the income reported to the federal internal revenue service due to fraud, if known."

SB 22 be further amended by motion of Senator Tyson: on page 19, in line 36, by striking "statute book" and inserting "Kansas register"

A motion to further amend SB 22 was made by Senator Pyle: on page 5, in line 42, by striking "2020" and inserting "2019";

On page 8, in line 26, by striking all after "(xviii)"; by striking all in lines 27 through 30; in line 31, by striking all before "For" and inserting "(1)"; also in line 31, after "2007," by inserting "and ending before January 1, 2021,"; in line 36, after "jointly" by inserting "; and

(2) for all taxable years beginning after December 31, 2020, amounts received as benefits under the federal social security act that are included in federal adjusted gross income of a taxpayer";

On page 10, in line 10, by striking "2020" and inserting "2019"; in line 14, by striking "2020" and inserting "2019"; in line 17, by striking "2020" and inserting "2019"; following line 28, by inserting:

"(xxx) For all taxable years beginning after December 31, 2020, amounts received by retired individuals under employer-sponsored qualified or nonqualified retirement plans, including plans created by self-employed individuals, to the extent included in federal adjusted gross income.";

On page 12, in line 39, by striking "2020" and inserting "2019";

On page 13, in line 24, by striking "2020" and inserting "2019";

On page 14, in line 18, by striking "2020" and inserting "2019"; in line 22, by striking "2020" and inserting "2019";

On page 1, in the title, in line 4, by striking the first "and" and inserting a comma; also in line 4, after "expenses" by inserting ", social security benefits and amounts received from employer-sponsored retirement plans"

Senator Pyle citing in accordance with Senate Rule 27, requested the question be divided into 3 parts as follows:

The first part contains the provisions of the amendment which relate to the subtraction modification for social security benefits and is contained in K.S.A. 79-32,117(c)(xviii) of section 2 of the bill.

The second part contains the provisions of the amendment which relate to the subtraction modification for income received from retirement plans and is contained in the new subsection (c)(xxx) for K.S.A. 79-32,117 which is provided for in section 2 of the bill.

The third part contains the balance of the provisions of the amendment which relate to tax year changes.

And by adjusting the repealer and title accordingly,

Upon the showing of five hands, a roll call vote was requested for Part (1).

On roll call, the vote was: Yeas 36; Nays 1; Present and Passing 1; Absent or Not Voting 2.

Yeas: Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Nays: Alley.

Present and Passing: Baumgardner.

Absent or Not Voting: Billinger, Estes.

Part (1) was adopted.

Upon the showing of five hands, a roll call vote was requested for Part (2).

On roll call, the vote was: Yeas 29; Nays 0; Present and Passing 8; Absent or Not Voting 3.

Yeas: Bowers, Corson, Dietrich, Doll, Fagg, Faust-Goudeau, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, O'Shea, Olson, Peck, Petersen, Pittman, Pyle, Steffen, Straub, Thompson, Tyson, Ware, Warren, Wilborn.

Present and Passing: Alley, Baumgardner, Claeys, Erickson, Francisco, McGinn, Pettey, Sykes.

Absent or Not Voting: Billinger, Estes, Suellentrop.

Part (2) was adopted.

EXPLANATION OF VOTE

Mr. Chairman: I "PASS" on the motion for this amendment to SB 22. Before we take such action, I would like the Senate Assessment and Tax Committee to advise the body on whether qualified and nonqualified retirement plans should be treated in the same way since qualified plans use tax-deferred contributions from the employee while nonqualified plans use after-tax dollars. I would also like the committee to consider this in relation to the other exceptions for retirement plans and pensions that are currently allowed.—MARCI FRANCISCO

Upon the showing of five hands, a roll call vote was requested for Part (3).

On roll call, the vote was: Yeas 1; Nays 21; Present and Passing 16; Absent or Not Voting 2.

Yeas: Pyle.

Nays: Alley, Bowers, Claeys, Corson, Dietrich, Doll, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Holland, Holscher, Kerschen, McGinn, Pettey, Pittman, Sykes, Tyson, Ware.

Present and Passing: Baumgardner, Erickson, Hilderbrand, Kloos, Longbine, Masterson, O'Shea, Olson, Peck, Petersen, Steffen, Straub, Suellentrop, Thompson, Warren, Wilborn.

Absent or Not Voting: Billinger, Estes.

Part (3) was rejected.

A motion to further amend **SB 22** was made by Senator Sykes: on page 1, by striking all in lines 12 through 16; by striking all in lines 26 through 36;

By striking all on pages 2 through 18;

On page 19, by striking all in lines 1 through 32; following line 32, by inserting:

"New Sec. 2. The provisions of sections 2 through 11, and amendments thereto, shall be part of and supplemental to the Kansas retailers' sales tax act.

New Sec. 3. As used in this act:

(a) "Act" means sections 2 through 11, and amendments thereto.

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

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

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

(e) (1) "Marketplace facilitator" means a person that, pursuant to an agreement with a marketplace seller, facilitates sales by such marketplace seller through a physical or electronic marketplace operated by the person, and:

(A) Engages directly or indirectly, through one or more affiliated persons in any of the following:

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

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

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

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

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

(i) Payment processing services;

(ii) fulfillment, delivery or storage services;

(iii) listing products for sale;

(iv) setting prices;

(v) branding sales as those of the marketplace facilitator;

(vi) order taking;

(vii) advertising or promotion; or

(viii) providing customer service or accepting or assisting with returns or exchanges.

(2) A "marketplace facilitator" does not include a person who:

(A) Provides internet advertising services, including listing products for sale, so long as the person does not also engage in any of the activities described in subsection (e)(1)(A) in addition to any of the activities described in subsection (e)(1)(B); or

(B) with respect to rental of rooms, lodgings, accommodations, homes, apartments, cabins, residential dwelling units or hotel rooms in a hotel, as defined in K.S.A. 36-501, and amendments thereto, operates a marketplace or a portion of a marketplace that enables consumers to rent rooms, lodgings, accommodations, homes, apartments, cabins, residential dwelling units or hotel rooms in a hotel, as defined in K.S.A. 36-501, and amendments thereto, or acts as an accommodation broker as defined in K.S.A. 12-1692, and amendments thereto.

(3) The exclusion in subsection (e)(2)(B) does not apply to a marketplace facilitator or that portion of a marketplace facilitator that facilitates the sale of the rental of rooms, lodgings, accommodations, homes, apartments, cabins, residential dwelling units or hotel rooms in hotels, as defined in K.S.A. 36-501, and amendments thereto, or acts as an accommodation broker as defined in K.S.A. 12-1692, and amendments thereto, who also engages in any of the activities described in subsection (e)(1)(A) in addition to any of the activities described in subsection (e)(1)(B).

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

(g) "Platform" means an electronic or physical medium, including a website or catalog, operated by a referrer.

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

(i) (1) "Referrer" means a person, other than a person engaging in the business of printing a newspaper or publishing a newspaper, who contracts or otherwise agrees with a seller or marketplace seller to list or advertise for sale one or more items in any medium, including a website or catalog; receives a commission, fee or other consideration from the seller for the listing or advertisement; transfers, via telephone, internet link, or other means, a purchaser to a seller, marketplace seller or an affiliated person to complete the sale; and does not collect receipts from the purchasers for the transaction.

(2) "Referrer" does not include a person that:

(A) Provides internet advertising services; and

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

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

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

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

(m) "Transaction" means a sale of tangible personal property or a service by a marketplace seller including, but not limited to, all such marketplace seller's transactions for tangible personal property or a service, however consummated, including transactions completed on a website operated by: (1) The marketplace seller; (2) an affiliated person; or (3) a contract party, including a marketplace facilitator.

(n) As used in this act, the words and phrases set out in K.S.A. 79-3602, and amendments thereto, shall have the means respectively ascribed to them unless the

context requires a different meaning.

New Sec. 4. (a) On and after July 1, 2021, any marketplace facilitator that meets the criteria in subsection (b) or that has a physical presence in this state, must collect and remit retail sales or use tax on all taxable retail sales made or facilitated by the marketplace facilitator into this state pursuant to this act. Marketplace facilitators must begin collecting state and local retail sales or use taxes on taxable retail sales made or facilitated by the marketplace facilitator sourced to this state beginning on the first day of the next calendar month that is at least 30 days from the date that the marketplace facilitator met the threshold described in subsection (b).

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

(1) (A) For the period beginning on January 1, 2021, through June 30, 2021, the marketplace facilitator had cumulative gross receipts from retail sales sourced to this state; or

(B) during the current or immediately preceding calendar year, the marketplace facilitator had cumulative gross receipts from retail sales sourced to this state.

(2) (A) For any marketplace facilitator who satisfies the provisions of subsection (b)(1)(A), such retailer shall not be required to collect and remit any taxes from sales occurring prior to July 1, 2021.

(B) For any marketplace facilitator who satisfies the provisions of subsection (b)(1)(B) for sales in the current calendar year for the first time, such marketplace facilitator shall be required to collect and remit the tax on the cumulative gross receipts from sales in the current calendar year by the marketplace facilitator to customers in this state.

New Sec. 5. (a) In addition to other applicable recordkeeping requirements, the department may require a marketplace facilitator or referrer to provide or make available to the department any information the department determines is reasonably necessary to enforce the provisions of this act, the Kansas retailers' sales tax act and the Kansas compensating tax act. Such information may include documentation of sales made by marketplace sellers through the marketplace facilitator's physical or electronic marketplace. The department may prescribe by rules and regulations the form and manner for providing this information.

(b) A marketplace facilitator is relieved of liability under this act for failure to collect the correct amount of tax to the extent that the marketplace facilitator can show to the department's satisfaction that the error was due to incorrect or insufficient information given to the marketplace facilitator by the marketplace seller, unless the marketplace facilitator and marketplace seller are affiliated persons. When the marketplace facilitator is relieved of liability under this subsection, the marketplace seller is solely liable for the amount of uncollected tax due.

(c) Except as otherwise provided in this section, a marketplace seller obligated to collect the taxes imposed under this act is not required to collect such taxes on all taxable retail sales through a marketplace operated by a marketplace facilitator if the marketplace seller entered into an agreement with the marketplace facilitator indicating that the marketplace facilitator is registered with the department and will collect all applicable taxes due under this act, the Kansas retailers' sales tax act or the Kansas compensating tax act on all taxable retail sales made on behalf of the marketplace seller through the marketplace operated by the marketplace facilitator. This subsection does not relieve a marketplace seller from liability for uncollected taxes due under this act, the Kansas retailers' sales tax act or the Kansas compensating tax act resulting from a

marketplace facilitator's failure to collect the proper amount of tax due when the error was due to incorrect or insufficient information given to the marketplace facilitator by the marketplace seller.

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

New Sec. 6. (a) Except as otherwise provided in this act, taxes imposed under the Kansas retailers' sales tax act or the Kansas compensating tax act and payable by a consumer directly to the department are due, on returns prescribed by the department, as prescribed by those acts.

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

New Sec. 7. (a) A marketplace facilitator that is subject to section 4, and amendments thereto, and is complying with the requirements of the Kansas retailers' sales tax act or the Kansas compensating tax act may only seek a recovery of retail sales and use taxes, penalties or interest from the department by following the recovery procedures established under the Kansas retailers' sales tax act. However, no claim may be granted on the basis that the taxpayer lacked a physical presence in this state and complied with the tax collection provisions of the Kansas retailers' sales tax act or the Kansas compensating tax act voluntarily.

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

New Sec. 8. (a) A marketplace seller or a marketplace facilitator that is obligated to collect and remit the taxes imposed under this act, the Kansas retailers' sales tax act or the Kansas compensating tax act shall also collect and remit transient guest taxes pursuant to K.S.A. 12-1697, and amendments thereto, and 911 fees pursuant to K.S.A. 2020 Supp. 12-5369, 12-5370 and 12-5371, and amendments thereto.

(b) Beginning on and after July 1, 2021, the collection and remittance obligations of a marketplace facilitator under this act also apply to any other taxes and fees, as defined under this section, that are imposed on a retail sale made or facilitated by the marketplace facilitator, whether in its own right or as an agent of a marketplace seller, regardless of whether the marketplace seller has a tax collection obligation.

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

New Sec. 10. The secretary of revenue shall adopt such rules and regulations as deemed necessary for the administration of this act.

New Sec. 11. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or

application, and to this end, the provisions of this act are severable.

Sec. 12. K.S.A. 79-3702 is hereby amended to read as follows: 79-3702. For the purposes of this act:

(a) "Purchase price" means the consideration paid or given or contracted to be paid or given by any person to the seller of an article of tangible personal property for the article purchased. The term shall include, in addition to the consideration paid or given or contracted to be paid or given, the actual cost of transportation from the place where the article was purchased to the person using the same in this state. If a cash discount is allowed and taken on the sale it shall be deducted in arriving at the purchase price.

(b) ~~The meaning ascribed to words and phrases in K.S.A. 79-3602, and amendments thereto, insofar as is practicable, shall be applicable herein unless otherwise provided.~~ As used in this act, the words and phrases set out in K.S.A. 79-3602, and amendments thereto, shall have the meanings respectively ascribed to them unless the context requires a different meaning. The provisions of K.S.A. 79-3601 ~~to through~~ 79-3625, ~~inclusive;~~ 79-3650, ~~K.S.A. 79-3693 and 79-3694, and amendments thereto,~~ relating to enforcement, collection and administration, insofar as practicable, shall have full force and effect with respect to taxes imposed under the provisions of this act.

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

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

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

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

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

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

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

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

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

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

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

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

(G) (i) for any retailer that does not satisfy any of the requirements contained in subparagraphs (A) through (F), such retailer shall be a retailer doing business in this state, if:

(a) For the period beginning on January 1, 2021, through June 30, 2021, the retailer had cumulative gross receipts from sales by the retailer to customers in this state; or

(b) during the current or immediately preceding calendar year, the retailer had cumulative gross receipts from sales by the retailer to customers in this state.

(ii) (a) For any retailer who satisfies the provisions of subparagraph (G)(i), such retailer shall not be required to collect and remit any taxes from sales occurring prior to July 1, 2021.

(b) For any retailer who satisfies the provisions of subparagraph (G)(i)(b) for sales in the current calendar year for the first time, such retailer shall be required to collect and remit the tax on the cumulative gross receipts from sales in the current calendar year by the retailer to customers in this state.

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

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

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

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

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

(iv) delivers, installs, assembles or performs maintenance services for the retailer's

customers within the state;

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

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

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

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

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

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

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

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

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

1563(a) of the federal internal revenue code "cumulative gross receipts" means gross receipts as defined in K.S.A. 79-3602, and amendments thereto, and includes the gross receipts received by the retailer from its own direct sales combined with the gross receipts from sales facilitated on behalf of the retailers by a marketplace facilitator or marketplace facilitators, as defined in section 3, and amendments thereto.

Sec. 13. K.S.A. 79-3602 is hereby amended to read as follows: 79-3602. Except as otherwise provided, as used in the Kansas retailers' sales tax act:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(p) "Digital books" means works that are generally recognized in the ordinary and usual sense as books, including any literary work expressed in words, numbers or other verbal or numerical symbols or indicia if the literary work is generally recognized in the ordinary or usual sense as a book. "Digital books" does not include digital audio-visual works, digital audio works, periodicals, magazines, newspapers or other news or information products, chat rooms or web logs.

(q) (1) "Digital code" means a code that provides a purchaser with a right to obtain one or more types of digital property. A "digital code" may be obtained by any means, including electronic mail messaging or by tangible means, regardless of the code's designation as a song code, video code or book code.

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

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

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

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

- (1) Digital audio-visual works;
- (2) digital audio works;
- (3) digital books;
- (4) artwork;
- (5) digital photographs and pictures;
- (6) periodicals;
- (7) newspapers;
- (8) magazines;
- (9) video, audio and other greeting cards;
- (10) graphics;
- (11) templates;
- (12) patterns;
- (13) desktop applications;
- (14) mobile applications;
- (15) web applications;
- (16) cloud-based applications;
- (17) native applications;
- (18) online games;
- (19) video games;

(20) electronic games;

(21) any digital code related to any of the items listed above; or

(22) any streaming services related to any of the items listed above.

~~(j)~~(s) "Direct mail" means printed material delivered or distributed by United States mail or other delivery services to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

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

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

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

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

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

~~(n)~~(y) "Food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages or tobacco.

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

~~(p)~~(aa) "Ingredient or component part" means tangible personal property ~~which that~~ is necessary or essential to, and which is actually used in and becomes an integral and

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

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

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

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

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

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

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

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

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

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

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

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

(1) "Lease or rental" does not include:

(A) ~~A~~ a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

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

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

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

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

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

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

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

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

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

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

~~(l)~~(ll) "Municipal corporation" means any city incorporated under the laws of Kansas.

~~(m)~~(mm) "Nonprofit blood bank" means any nonprofit place, organization, institution or establishment that is operated wholly or in part for the purpose of obtaining, storing, processing, preparing for transfusing, furnishing, donating or distributing human blood or parts or fractions of single blood units or products derived

from single blood units, whether or not any remuneration is paid therefor, or whether such procedures are done for direct therapeutic use or for storage for future use of such products.

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

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

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

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

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

~~(dd)~~(ss) "Property which is consumed" means tangible personal property which is essential or necessary to and which is used in the actual process of and consumed, depleted or dissipated within one year in: (1) The production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property; (2) the providing of services; (3) the irrigation of crops, for sale in the regular course of business; or (4) the storage or processing of grain by a public grain warehouse or other

grain storage facility, and which is not reusable for such purpose. The following is a listing of tangible personal property, included by way of illustration but not of limitation, which qualifies as property which is consumed:

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

(B) electricity, gas and water; and

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

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

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

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

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

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

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

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

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

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

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

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

(D) delivery charges; and

- (E) installation charges.
- (2) "Sales or selling price" includes consideration received by the seller from third parties if:
 - (A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
 - (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
 - (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
 - (D) one of the following criteria is met:
 - (i) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;
 - (ii) the purchaser identifies to the seller that the purchaser is a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or
 - (iii) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.
- (3) "Sales or selling price" shall not include:
 - (A) Discounts, including cash, term or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
 - (B) interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;
 - (C) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser;
 - (D) the amount equal to the allowance given for the trade-in of property, if separately stated on the invoice, billing or similar document given to the purchaser; and
 - (E) commencing on July 1, 2018, and ending on June 30, 2021, cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale.
- ~~(mm)~~(bbb) "Seller" means a person making sales, leases or rentals of personal property or services.
- ~~(nn)~~(ccc) "Service" means those services described in and taxed under the provisions of K.S.A. 79-3603, and amendments thereto.
- ~~(oo)~~(ddd) "Sourcing rules" means the rules set forth in K.S.A. 79-3670 through 79-3673, ~~K.S.A. and 12-191 and 12-191a~~, and amendments thereto, which shall apply to identify and determine the state and local taxing jurisdiction sales or use taxes to pay, or collect and remit on a particular retail sale.
- ~~(pp)~~(eee) "Tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam and prewritten computer software.
- ~~(qq)~~(fff) "Taxpayer" means any person obligated to account to the director for taxes

collected under the terms of this act.

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

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

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

(3) tangible personal property;

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

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

(6) internet access service;

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

(8) ancillary services; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(3) tangible personal property;~~

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

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

~~(6) internet access service;~~

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

~~(8) ancillary services; or~~

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

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

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

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

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

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

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

Sec. 14. K.S.A. 2020 Supp. 79-3603 is hereby amended to read as follows: 79-3603. For the privilege of engaging in the business of selling tangible personal property at retail in this state or rendering or furnishing any of the services taxable under this act, there is hereby levied and there shall be collected and paid a tax at the rate of 6.5%. On and after July 1, 2021, 16.154% of the 6.5% rate imposed shall be levied for the state highway fund, the state highway fund purposes and those purposes specified in K.S.A. 68-416, and amendments thereto, and all revenue collected and received from such tax levy shall be deposited in the state highway fund. Within a redevelopment district established pursuant to K.S.A. 74-8921, and amendments thereto, there is hereby levied and there shall be collected and paid an additional tax at the rate of 2% until the earlier of the date the bonds issued to finance or refinance the redevelopment project have been paid in full or the final scheduled maturity of the first series of bonds issued to finance any part of the project. Such tax shall be imposed upon:

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

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

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

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

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

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

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

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

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

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

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

(l) (1) except as otherwise provided by paragraph (2), the gross receipts received

from the sales of tangible personal property to all contractors, subcontractors or repairmen for use by them in erecting structures, or building on, or otherwise improving, altering, or repairing real or personal property.

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

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

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

(o) the gross receipts received from the isolated or occasional sale of motor vehicles or trailers but not including: (1) The transfer of motor vehicles or trailers by a person to a corporation or limited liability company solely in exchange for stock securities or membership interest in such corporation or limited liability company; (2) the transfer of motor vehicles or trailers by one corporation or limited liability company to another when all of the assets of such corporation or limited liability company are transferred to such other corporation or limited liability company; or (3) the sale of motor vehicles or trailers-~~which that~~ are subject to taxation pursuant to the provisions of K.S.A. 79-5101 et seq., and amendments thereto, by an immediate family member to another immediate family member. For the purposes of paragraph (3), immediate family member means lineal ascendants or descendants, and their spouses. Any amount of sales tax paid pursuant to the Kansas retailers sales tax act on the isolated or occasional sale of motor vehicles or trailers on and after July 1, 2004, which the base for computing the tax was the value pursuant to K.S.A. 79-5105(a), (b)(1) and (b)(2), and amendments thereto, when such amount was higher than the amount of sales tax which would have been paid under the law as it existed on June 30, 2004, shall be refunded to the taxpayer pursuant to the procedure prescribed by this section. Such refund shall be

in an amount equal to the difference between the amount of sales tax paid by the taxpayer and the amount of sales tax which would have been paid by the taxpayer under the law as it existed on June 30, 2004. Each claim for a sales tax refund shall be verified and submitted not later than six months from the effective date of this act to the director of taxation upon forms furnished by the director and shall be accompanied by any additional documentation required by the director. The director shall review each claim and shall refund that amount of tax paid as provided by this act. All such refunds shall be paid from the sales tax refund fund, upon warrants of the director of accounts and reports pursuant to vouchers approved by the director of taxation or the director's designee. No refund for an amount less than \$10 shall be paid pursuant to this act. In determining the base for computing the tax on such isolated or occasional sale, the fair market value of any motor vehicle or trailer traded in by the purchaser to the seller may be deducted from the selling price;

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

For the purposes of this subsection:

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

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

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

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

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

(6) "windstorm"~~shall mean means~~ straight line winds of at least 80 miles per hour

as determined by a recognized meteorological reporting agency or organization;

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

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

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

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

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

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

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

(x) all sales of digital property, and subscription services thereto, regardless of whether: (1) The purchaser has the right to permanently use the property; (2) the purchaser's right to access or retain the property is not permanent; or (3) the purchaser's right to use is conditioned upon continued payment.

Sec. 15. K.S.A. 79-32,119 is hereby amended to read as follows: 79-32,119. The Kansas standard deduction of an individual, including a husband and wife who are either both residents or who file a joint return as if both were residents, shall be equal to the sum of the standard deduction amount allowed pursuant to this section, and the additional standard deduction amount allowed pursuant to this section for each such deduction allowable to such individual or to such husband and wife under the federal internal revenue code. ~~For tax year 1998 through tax year 2012, the standard deduction amount shall be as follows: Single individual filing status, \$3,000; married filing status, \$6,000; and head of household filing status, \$4,500.~~ For tax year 1998, and all tax years thereafter, the additional standard deduction amount shall be as follows: Single individual and head of household filing status, \$850; and married filing status, \$700. For tax year 2013, ~~and all tax years thereafter through tax year 2020,~~ the standard deduction amount of an individual, including husband and wife who are either both residents or who file a joint return as if both were residents, shall be as follows: Single individual filing status, \$3,000; married filing status, \$7,500; and head of household filing status, \$5,500. For tax year 2021, the standard deduction amount of an individual, including husband and wife who are either both residents or who file a joint return as if both were residents, shall be as follows: Single individual filing status, \$3,600; married

filing status, \$9,000; and head of household filing status, \$6,600. For tax year 2022, and all tax years thereafter, the standard deduction amount of an individual, including husband and wife who are either both residents or who file a joint return as if both were residents, shall be as follows: Single individual filing status, \$4,050; married filing status, \$10,125; and head of household filing status, \$7,425. For purposes of the foregoing, the federal standard deduction allowable to a husband and wife filing separate Kansas income tax returns shall be determined on the basis that separate federal returns were filed, and the federal standard deduction of a husband and wife filing a joint Kansas income tax return shall be determined on the basis that a joint federal income tax return was filed.";

Also on page 19, in line 33, by striking all after "K.S.A."; in line 34, by striking "32,143a," and inserting "79-32,119, 79-3602, 79-3702 and K.S.A. 2020 Supp. 79-3603";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, by striking "income"; also in line 1, by striking all after "to"; by striking all in lines 2 through 6; in line 7 by striking "exemption of" and inserting "income taxation, increasing the Kansas standard deduction; exempting"; in line 9, before "amending" by inserting "relating to sales and compensating use tax, requiring collection and remittance by marketplace facilitators, providing nexus for certain retailers, imposing tax on digital property and subscription services;"; also in line 9, by striking all after "K.S.A."; in line 10, by striking "and 79-32,143a" and inserting "79-32,119, 79-3602 and 79-3702 and K.S.A. 2020 Supp. 79-3603"

Senator Tyson citing in accordance with Senate Rule 27, requested the question be divided into four parts as follows:

The first part contains the provisions of the amendment which relate to requiring marketplace facilitators to collect and remit sales and compensating use tax and providing nexus for certain retailers and is contained in sections 2 through 12 of the amendment.

The second part contains the provisions of the amendment which relate to imposing a sales tax on digital property and subscription services and is contained in sections 13 and 14 of the amendment.

The third part contains the provisions of the amendment which relate to increasing the standard deduction and is contained in section 15 of the amendment.

The fourth part contains the balance of the amendment not specified in parts one through three of this motion which consists of instructions in the amendment related to the striking on page 1 of the bill, all in lines 12 through 16 and 26 through 36; by striking all on pages 2 through 18 of the bill; on page 19 of the bill, by striking all in lines 1 through 32.

And by adjusting the repealer and title accordingly.

Upon the showing of five hands, a roll call vote was requested for Part (1).

On roll call, the vote was: Yeas 11; Nays 26; Present and Passing 0; Absent or Not Voting 3.

Yeas: Corson, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Pettey, Pittman, Sykes, Ware.

Nays: Alley, Baumgardner, Bowers, Claeys, Dietrich, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Longbine, Masterson, O'Shea, Olson, Peck, Petersen,

Pyle, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Absent or Not Voting: Billinger, Estes, McGinn.

Part (1) was rejected.

Upon the showing of five hands, a roll call vote was requested for Part (2).

On roll call, the vote was: Yeas 5; Nays 27; Present and Passing 6; Absent or Not Voting 2.

Yeas: Corson, Faust-Goudeau, Francisco, Holscher, Sykes.

Nays: Alley, Baumgardner, Bowers, Claeys, Dietrich, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pittman, Pyle, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Present and Passing: Haley, Hawk, Holland, Longbine, Pettey, Ware.

Absent or Not Voting: Billinger, Estes.

Part (2) was rejected.

EXPLANATION OF VOTE

Mr. Chairman: We have heard repeatedly tonight that we need to level the playing field for Main Street Kansas Businesses. There are two ways to make taxes fair when a business is paying a high tax rate and another business is not. Some of my colleagues on the other side want to raise taxes while the keep increasing state spending, and call that being fair. With the governor closing so many businesses during COVID-19, these business are struggling and I prefer the second option. That option is to lower the taxes on those businesses that are struggling and tightening our state spending belt. For these reasons I vote "NO" on the amendment.—RICHARD HILDERBRAND

Upon the showing of five hands, a roll call vote was requested for Part (3).

On roll call, the vote was: Yeas 38; Nays 0; Present and Passing 0; Absent or Not Voting 2.

Yeas: Alley, Baumgardner, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Billinger, Estes.

Part (3) was adopted.

Upon the showing of five hands, a roll call vote was requested for Part (4).

On roll call, the vote was: Yeas 9; Nays 28; Present and Passing 1; Absent or Not Voting 2.

Yeas: Corson, Faust-Goudeau, Francisco, Hawk, Holland, Holscher, Pettey, Sykes, Ware.

Nays: Alley, Baumgardner, Bowers, Claeys, Dietrich, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pittman, Pyle, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Present and Passing: Haley.

Absent or Not Voting: Billinger, Estes.

Part (4) was rejected.

and **SB 22** be passed as further amended.

FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

On motion of Senator Suellentrop an emergency was declared by a 2/3 constitutional majority, and **SB 22**, **SB 32**, **SB 36**, **SB 58**, **SB 70** were advanced to Final Action and roll call.

SB 22, AN ACT concerning income taxation; relating to addition and subtraction modifications for the treatment of global intangible low-taxed income, business interest, capital contributions, FDIC premiums, business meals, payment protection program loans and expenses, social security benefits and amounts received from employer-sponsored retirement plan; expanding the expense deduction for income taxpayers and calculating the deduction amount; providing the ability to elect to itemize for individuals; exemption of unemployment or other compensation income attributable as a result of identity fraud; increasing the Kansas standard deduction; amending K.S.A. 79-32,117, 79-32,119, 79-32,120, 79-32,138 and 79-32,143a and repealing the existing sections.

On roll call, the vote was: Yeas 24; Nays 15; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Bowers, Claeys, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pyle, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Billinger, Corson, Dietrich, Doll, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, Longbine, Pettet, Pittman, Sykes, Ware.

Absent or Not Voting: Estes.

The bill passed, as amended.

EXPLANATION OF VOTE

Mr. President: I vote "NO" on **SB 22**. I had voted for the amendment to increase the standard deduction that passed, but I also voted for an amendment that remove the ability for any individual to elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction, regardless of whether they itemized their federal taxes that failed. I want tax reforms that are fiscally responsible and will help a majority of Kansans. The increase in the standard deduction will help most taxpayers, but I believe it should replace, not be in addition to, the change for itemized deductions. In the midst of a pandemic, the fiscal note needs to be pared down so that we can keep our budget in balance and be in a position to make the needed investments to help Kansans recover and move forward.—MARCI FRANCISCO

Mr. President: I vote "NO" on **SB 22**. This bill is too expensive and creates a large hole in our budget, especially with the added amendments. This large deficit will impede the economic recovery we desperately need as we move out of the current pandemic. As the ranking member on the Senate Ways and Means Committee, I feel a deep sense of responsibility to balance our budget. While I support increasing the standard deduction because it will help all Kansans, the bottom line is that this bill does very little for regular, hardworking Kansans, and does a lot for giant multinational corporations, 62% of which report zero income in our state. At a time when we're facing huge unemployment rates, we do not need tax cuts for the rich which have no

impact on unemployment. At a time when we're facing economic uncertainty, we do not need to repeat failed tax experiments which studies have shown – and which we have seen firsthand here in Kansas – have no impact on economic growth. With this legislation, we're once again putting giant multinational corporations ahead of Kansas families and businesses.—TOM HAWK

Mr. President: “Too much Wall Street . . . Not enough Main Street.”—TOM HOLLAND

Mr. President: We have an obligation to support our state's future. That means fully funding our schools, our roads and other essential services. It also means fully supporting our state's economic future so that businesses can move here, stay here and thrive here. I vote "YES" to fostering a fair business climate that will put Kansas on par with other states. A strong business climate is what fuels the job creation and economic growth we need to adequately fund education and our quality of life for the long-haul.—KRISTEN O'SHEA

Mr. President: As one who works with numbers, I appreciate the words of the Chair of Ways and Means who has looked through the numbers. I worry about our teachers, our correction workers, our retirees who could be impacted by such a drastic cut in the fourth or fifth week of this new biennium. We have hundreds of thousands of Kansas struggling to get unemployment benefits, struggling to get vaccines, and kids who will need extra education to make up for the major break in their studies, especially those most at risk. We should look at targeted relief for taxpayers this year that will help them get through this pandemic. I vote “NO” on **SB 22**. I think we should revisit these cuts next year when we are out of this pandemic.—JEFF PITTMAN

Mr. President: I am voting “NO” on **SB 22**. While I am grateful that our body chose to raise the standard deduction for 94% of Kansans, it does so without paying for it or anything else in this bill. So while this increased standard deduction benefits Kansans in theory, it forces them to pay a far greater price. Our state has a constitutional duty to adequately fund our public schools and an obligation to Kansas taxpayers to keep our roads and bridges safe. The astronomical fiscal note from the tax cuts to Wall Street alone means SB 22 jeopardizes our ability to fulfill those responsibilities. We have been down this road before, and especially as we recover from this pandemic, we cannot afford to go down it again.—DINAH SYKES

Senators Corson, Faust-Goudeau, Holland, Holscher and Pettey request the record to show they concur with the "Explanation of Vote" offered by Senator Sykes on **SB 22**.

Mr. President: We cannot afford to extend tax breaks for corporations or the wealthy that cripple our ability to invest in areas that would otherwise expand economic growth. Tax reform must be done in a way that protects working families and the vulnerable, and requires corporations and the wealthy to pay a fair share. We must prioritize our tax reform to remove expenditures that disproportionately benefit the wealthy, while protecting those that create ladders of opportunity, reward work, and protect the poor. So, while I support many of the pieces in this bill, the cost is just too high.—MARY WARE

Senator Pettey requests the record to show she concurs with the "Explanation of Vote" offered by Senator Ware on **SB 22**.

SB 32, AN ACT concerning education; relating to postsecondary education; concurrent and dual enrollment; authorizing school districts to pay tuition and fees; requiring tuition waiver for foster children; report to the legislature; amending K.S.A. 72-3220, 72-3221, 72-3222, 72-3223, 72-3224 and 75-53,112 and repealing the existing sections.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The bill passed, as amended.

SB 36, AN ACT concerning motor vehicles; relating to salvage vehicles; allowing employees of salvage vehicle pools to perform vehicle identification number inspections; allowing salvage vehicle pools and salvage vehicle dealers to apply to the division of vehicles for ownership documents; providing application and notice requirements therefor; amending K.S.A. 2020 Supp. 8-116a and 8-198 and repealing the existing sections.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The bill passed, as amended.

SB 58, AN ACT concerning liens or claims against real or personal property; relating to prohibitions on certain filings; notice; criminal penalties; amending K.S.A. 2020 Supp. 58-4301 and 58-4302 and repealing the existing sections.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The bill passed.

SB 70, AN ACT concerning sales taxation; relating to exemptions from the sales or selling price; making exemption of certain cash rebates on sales or leases or new motor vehicles permanent; excluding discounts and coupons from the sales or selling price; amending K.S.A. 79-3602 and repealing the existing section.

On roll call, the vote was: Yeas 26; Nays 11; Present and Passing 2; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Claeys, Dietrich, Doll, Erickson, Fagg, Gossage, Hilderbrand, Kerschen, Kloos, Masterson, O'Shea, Olson, Peck, Petersen, Pittman, Pyle, Steffen, Straub, Suellentrop, Thompson, Tyson, Warren, Wilborn.

Nays: Corson, Faust-Goudeau, Francisco, Haley, Hawk, Holland, Holscher, McGinn, Pettey, Sykes, Ware.

Present and Passing: Bowers, Longbine.

Absent or Not Voting: Estes.

The bill passed.

FINAL ACTION ON CONSENT CALENDAR

SB 55, SB 64 having appeared on the Consent Calendar for the required two full legislative days without objection from any member, were considered on final action.

SB 55, AN ACT concerning the healing arts; relating to healing arts schools; professional services performed thereby; authorization thereof; amending K.S.A. 2020 Supp. 17-2707, 17-7668 and 65-2877a and repealing the existing sections.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The bill passed.

SB 64, AN ACT concerning postsecondary education; relating to the regulation of private and out-of-state educational institutions by the state board of regents; certificates of approval; student protections; rules and regulations; amending K.S.A. 74-32,162, 74-32,163, 74-32,164, 74-32,165, 74-32,167, 74-32,168, 74-32,169, 74-32,170, 74-32,171, 74-32,172, 74-32,173, 74-32,175, 74-32,177, 74-32,178, 74-32,181, 74-32,182, 74-32,184, 74-32,194, 74-32,417 and 74-32,419 and repealing the existing sections.

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The bill passed.

CONSIDERATION OF APPOINTMENTS

In accordance with Senate Rule 55, the following appointment submitted to the Senate for confirmation was considered.

Senator Suellentrop moved the following appointment be confirmed as recommended by the Committee on **Federal and State Affairs**.

By the Governor

On the appointment to the:

Kansas Human Rights Commission:

Michael Kane, Term ends January 15, 2025

On roll call, the vote was: Yeas 39; Nays 0; Present and Passing 0; Absent or Not Voting 1.

Yeas: Alley, Baumgardner, Billinger, Bowers, Claeys, Corson, Dietrich, Doll, Erickson, Fagg, Faust-Goudeau, Francisco, Gossage, Haley, Hawk, Hilderbrand, Holland, Holscher, Kerschen, Kloos, Longbine, Masterson, McGinn, O'Shea, Olson, Peck, Petersen, Pettey, Pittman, Pyle, Steffen, Straub, Suellentrop, Sykes, Thompson, Tyson, Ware, Warren, Wilborn.

Absent or Not Voting: Estes.

The appointment was confirmed.

REPORTS OF STANDING COMMITTEES

Committee on **Assessment and Taxation** begs leave to submit the following report: The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Chief Hearing Officer, State Board of Tax Appeals: K.S.A. 74-2433

Thomas P. Browne, Jr., to fill a term expiring on January 15, 2025

Committee on **Local Government** recommends **SB 88** be passed.

Also, **SB 118** be passed and, because the committee is of the opinion that the bill is of a noncontroversial nature, be placed on the consent calendar.

Committee on **Public Health and Welfare** begs leave to submit the following report:

The following appointment was referred to and considered by the committee and your committee recommends that the Senate approve and consent to such appointment:

By the Governor:

Ombudsman, State Long Term Care Ombudsman: K.S.A. 75-7304

Camille Russell, to fill a term expiring on March 15, 2024

On motion of Senator Suellentrop, the senate adjourned pro forma until 2:30 p.m. February 10, 2021.

CHARLENE BAILEY, CINDY SHEPARD, *Journal Clerks.*

COREY CARNAHAN, *Secretary of the Senate.*

