

# Journal of the House

## EIGHTY-FIRST DAY

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HALL OF THE HOUSE OF REPRESENTATIVES,  
TOPEKA, KS, Friday, June 5, 2015, 11:00 a.m.

The House met pursuant to adjournment with Speaker pro tem Mast in the chair.

The roll was called with 107 members present.

Reps. Bollier, Bridges, Bruchman, Campbell, Carlin, Claeys, DeGraaf, Garber, Hedke, Highland, Houston, K. Jones, Kahrs, Patton, Rhoades, Sloan, Whipple and Winn were excused on excused absence by the Speaker.

Rep. Suellentrop was excused on legislative business later in the morning session.

Present later: Bruchman, Campbell, Rhoades and Winn.

Rep. Carlin was present for the afternoon session only.

Prayer by Chaplain Brubaker:

Almighty God,  
This is the day You have given us,  
we thank you and ask that Your presence be with us.  
Teddy Roosevelt once said,  
“In any moment of decision,  
the best thing is to do the right thing.  
The next best thing is to do the wrong thing.  
The worse thing to do is nothing.”  
Lord, I believe we have come to a point  
where it might not be right vs. wrong,  
but right vs. right.  
We all want what is best for Kansas,  
we just have different ways to achieve it.  
So to help us today, we heed Your Word from Jeremiah:  
“Call to me and I will answer you.  
I’ll tell you marvelous and wondrous things  
that you could never figure out on your own.”  
As the writer of Hebrews suggest,  
I boldly come before Your throne of grace with confidence,  
asking that our leaders receive your mercy  
and find grace to help them in their time of need.  
In Christ’s Name I pray,  
Amen.

The Pledge of Allegiance was led by Rep. Proehl.

### MESSAGES FROM THE SENATE

The Senate accedes to the request of the House for a conference on **H Sub for SB 270** and has appointed Senators Donovan, Tyson and Holland as third conferees on the part of the Senate.

### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Vickrey, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **HB 2048, S Sub for HB 2177**.

### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Vickrey, the House acceded to the request of the Senate for a conference on **S Sub for HB 2177**.

Speaker pro tem Mast thereupon appointed Reps. KleeB, Suellentrop and Sawyer as second conferees on the part of the House.

### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2048** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 1, by striking all in lines 6 through 34;

By striking pages 2 and 3;

On page 4, by striking all in lines 1 through 33; following line 33 by inserting:

"New Section 1. (a) The attorney general is hereby given jurisdiction and authority over all matters involving the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act including to:

(1) Employ or appoint agents as necessary to implement, administer and enforce the act;

(2) contract;

(3) expend funds;

(4) license and discipline;

(5) investigate;

(6) issue subpoenas;

(7) keep statistics; and

(8) conduct education and outreach programs to promote compliance with the act.

(b) In accordance with the rules and regulations filing act, the attorney general is hereby authorized to adopt rules and regulations necessary to implement the provisions of the scrap metal theft reduction act.

(c) There is hereby established in the state treasury the scrap metal theft reduction fee fund to be administered by the attorney general. All moneys received by the attorney general from fees, charges or penalties collected under the provisions of the scrap metal theft reduction act shall be remitted to the state treasurer in accordance with the

provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount thereof in the state treasury to the credit of the scrap metal theft reduction fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee. All moneys credited to the scrap metal theft reduction fee fund shall be expended for the administration of the duties, functions and operating expenses incurred under the provisions of the scrap metal theft reduction act.

(d) Before July 1, 2016, the attorney general shall establish and maintain a database which shall be a central repository for the information required to be provided under K.S.A. 2014 Supp. 50-6,110, and amendments thereto. The database shall be maintained for the purpose of providing information to law enforcement and for any other purpose deemed necessary by the attorney general to implement and enforce the provisions of the scrap metal theft reduction act.

(e) The information required by K.S.A. 2014 Supp. 50-6,110, and amendments thereto, maintained in such database by the attorney general, or by any entity contracting with the attorney general, submitted to, maintained or stored as part of the system shall:

(1) Be confidential, shall only be used for investigatory, evidentiary or analysis purposes related to criminal violations of city, state or federal law and shall only be released to law enforcement in response to an official investigation or as permitted in subsection (d); and

(2) not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2020, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.

New Sec. 2. (a) If, by the attorney general's own inquiries or as a result of complaints, the attorney general has reason to believe that a person has engaged in, is engaging in or is about to engage in an act or practice that violates the scrap metal theft reduction act, the attorney general, or any deputy attorney general or assistant attorney general may administer oaths and affirmations, subpoena witnesses or matter and collect evidence.

(b) If the matter that the attorney general subpoenas is located outside this state, the person subpoenaed may either make it available to the attorney general at a convenient location within the state or pay the reasonable and necessary expenses for the attorney general or the attorney general's designee to examine the matter at the place where it is located. The attorney general may designate representatives, including officials of the state in which the matter is located, to inspect the matter on the attorney general's behalf, and the attorney general may respond to similar requests from officials of other states.

(c) Service by the attorney general of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made by:

(1) The mailing thereof by certified mail to the last known place of business, residence or abode within or without this state; or

(2) in the manner provided in the code of civil procedure as if a petition had been filed.

(d) The attorney general may request that an individual who refuses to comply with

a subpoena, on the ground that the testimony or matter may incriminate the individual, be ordered by the court to provide the testimony or matter. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which the individual is entitled by law, may not be subjected to a criminal proceeding or to a civil penalty to the transaction concerning which the individual is required to testify or produce relevant matter.

(e) If any person willfully fails or refuses to file any statement or report required by the scrap metal theft reduction act, or obey any subpoena issued by the attorney general, the attorney general may, after notice, apply to the district court and, after a hearing thereon, the district court may issue an order:

(1) Granting injunctive relief restraining the sale or advertisement of any services or merchandise by such persons;

(2) vacating, annulling or suspending the corporate charter of a corporation created by or under the laws of this state or revoking or suspending the certificate of authority to do business in this state of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to the person, which are used to further the allegedly unlawful practice; or

(3) granting such other relief as may be required, until the person files the statement or report, or obeys the subpoena.

New Sec. 3. (a) Any scrap metal dealer who violates any of the provisions of the scrap metal theft reduction act, in addition to any other penalty provided by law, may incur a civil penalty imposed pursuant to subsection (b) in an amount not less than \$100 nor more than \$5,000 for each violation.

(b) The attorney general, upon a finding that a scrap metal dealer or any employee or agent thereof or any person or entity required to be registered as a scrap metal dealer has violated any of the provisions of the scrap metal theft reduction act may impose a civil penalty as provided in this subsection upon such scrap metal dealer.

(c) A civil penalty shall not be imposed pursuant to this section except upon the written order of the attorney general to the scrap metal dealer who is responsible for the violation. Such order is a final order for purposes of judicial review and shall state the violation, the penalty to be imposed and the right of such dealer to appeal as provided in the Kansas judicial review act.

(d) This section shall take effect on and after January 1, 2016.

New Sec. 4. (a) The attorney general may bring a civil action to:

(1) Obtain a declaratory judgment that an act or practice violates the scrap metal theft reduction act;

(2) enjoin, or to obtain a restraining order against any person who has violated, is violating, or is otherwise likely to violate the scrap metal theft reduction act;

(3) recover reasonable expenses and investigation fees; or

(4) impose any civil penalty authorized by the scrap metal theft reduction act.

(b) In lieu of investigating or continuing an action or proceeding, the attorney general may accept a consent judgment with respect to any act or practice declared to be a violation of the scrap metal theft reduction act. Before any consent judgment entered into pursuant to this section shall be effective, it must be approved by the district court and an entry made thereof in the manner required for making an entry of judgment. Once such approval is received, any breach of the conditions of such consent judgment

shall be treated as a violation of a court order, and shall be subject to all the penalties provided by law.

(c) In any action brought by the attorney general, the court may, without requiring bond of the attorney general:

(1) Make such orders or judgments as may be necessary to prevent the use or employment by a person of any practice declared to be a violation of the scrap metal theft reduction act;

(2) issue a temporary restraining order or enjoin any person from violating the scrap metal theft reduction act;

(3) award reasonable expenses and investigation fees, civil penalties and costs; and

(4) grant other appropriate relief.

(d) The commission of any act or practice declared to be a violation of the scrap metal theft reduction act shall render the violator liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in a sum of not more than \$5,000 for each violation.

(e) Any person who willfully violates the terms of any court order issued pursuant to the scrap metal theft reduction act shall forfeit and pay a civil penalty of not more than \$10,000 per violation, in addition to other penalties that may be imposed by the court, as the court shall deem necessary and proper. For the purposes of this section, the district court issuing an order shall retain jurisdiction, and in such cases, the attorney general, acting in the name of the state may petition for recovery of civil penalties.

(f) Any act or practice declared to be a violation of the scrap metal theft reduction act which is continuing in nature shall be deemed a separate violation each day such act or practice exists.

(g) This section shall take effect on and after January 1, 2016.

New Sec. 5. (a) Any person, whether or not a resident or citizen of this state, who in person or through an agent or an instrumentality, engages in business as a scrap metal dealer as defined in the scrap metal theft reduction act, thereby submits the person to the jurisdiction of the courts of this state as to any cause of action arising from such business.

(b) Every administrative or civil action pursuant to the scrap metal theft reduction act shall be brought in the district court of Shawnee county or in any other district where venue is otherwise authorized by law.

New Sec. 6. (a) A municipality shall not enact or enforce any ordinance, resolution or regulation relating to the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act.

(b) Any ordinance, resolution or regulation prohibited by subsection (a) that was adopted prior to July 1, 2015, shall be null and void.

(c) No action shall be commenced or prosecuted against any individual for a violation of any ordinance, resolution or regulation that is prohibited by subsection (a) and which was adopted prior to July 1, 2015, if such violation occurred on or after July 1, 2014.

(d) As used in this section, "municipality" has the same meaning as defined in K.S.A. 75-6102, and amendments thereto.

New Sec. 7. (a) At any preliminary examination pursuant to K.S.A. 22-2902, and amendments thereto, in which the details of each sale or transaction required to be maintained by scrap metal dealers pursuant to K.S.A. 2014 Supp. 50-6,110, and

amendments thereto, are to be introduced as evidence, the business records of such sale or transaction shall be admissible in to evidence in the preliminary examination in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person.

(b) This section shall be part of and supplemental to the Kansas code of criminal procedure.

Sec. 8. K.S.A. 2014 Supp. 21-5804 is hereby amended to read as follows: 21-5804.

(a) In any prosecution under K.S.A. 2014 Supp. 21-5801 through 21-5839, and amendments thereto, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

(1) The giving of a false identification or fictitious name, address or place of employment at the time of ~~obtaining, buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting~~ control over the property;

(2) the failure of a person who leases or rents personal property to return the same within 10 days after the date set forth in the lease or rental agreement for the return of the property, if notice is given to the person renting or leasing the property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

(3) destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;

(4) destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;

(5) the failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(6) the failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying: (A) The time and place to return the vehicle; and (B) that failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(7) removing a theft detection device, without authority, from merchandise or disabling such device prior to purchase; or

(8) under the provisions of ~~subsection (a)(5) of~~ K.S.A. 2014 Supp. 21-5801(a)(5), and amendments thereto, the failure to replace or reattach the nozzle and hose of the

pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.

(b) In any prosecution for a misdemeanor under K.S.A. 2014 Supp. 21-5801, and amendments thereto, in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.

(c) In a prosecution for theft as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, and such theft is of services, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service, caused by tampering, shall be prima facie evidence of intent to commit theft of services by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, water, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, water, telephone service or cable television service which has not been authorized or measured.

(d) In a prosecution for theft as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, and such theft is of regulated scrap metal as defined in K.S.A. 2014 Supp. 50-6,109, and amendments thereto, either in whole or in part, the failure to give information or the giving of false information to a scrap metal dealer pursuant to the requirements of the scrap metal theft reduction act, the transportation of regulated scrap metal outside the county from where it was obtained, the transportation of regulated scrap metal across state lines or the alteration of any regulated scrap metal prior to any transaction with a scrap metal dealer shall be prima facie evidence of intent to permanently deprive the owner of the regulated scrap metal of the possession, use or benefit thereof.

~~(d)~~(e) As used in this section:

(1) "Notice" means notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person's last known address; and

(2) "tampering" includes, but is not limited to:

(A) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

(B) defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;

(C) preventing any such meters from properly measuring or registering;

(D) knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, water or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or

(E) causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts.

Sec. 9. K.S.A. 2014 Supp. 21-5813 is hereby amended to read as follows: 21-5813.

(a) Criminal damage to property is by means other than by fire or explosive:

(1) Knowingly damaging, destroying, defacing or substantially impairing the use of any property in which another has an interest without the consent of such other person; or

(2) damaging, destroying, defacing or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder.

(b) Aggravated criminal damage to property is criminal damage to property, as defined in subsection (a)(1), if the value or amount of damage exceeds \$5,000, committed with the intent to obtain any regulated scrap metal as defined in K.S.A. 2014 Supp. 50-6,109, and amendments thereto, or any items listed in K.S.A. 2014 Supp. 50-6,111(d), and amendments thereto, upon:

(1) Any building, structure, personal property or place used primarily for worship or any religious purpose;

(2) any building, structure or place used as a school or as an educational facility;

(3) any building, structure or place used by a non-profit or charitable business, corporation, firm, service or association;

(4) any grave, cemetery, mortuary or personal property of the cemetery or mortuary or other facility used for the purpose of burial or memorializing the dead;

(5) any agricultural property or agricultural infrastructure;

(6) any construction, mining or recycling facility, structure or site;

(7) any utility, utility service, telecommunication, telecommunication service, cable or video service facility, property, building, structure, site or component thereof;

(8) any municipal, county or state building, structure, site or property;

(9) any residential, commercial, industrial or agricultural irrigation, sprinkler or watering system or component thereof;

(10) the infrastructure of any residence, building or structure;

(11) any historical marker, plaque or work of art;

(12) any vehicle or transportation building, facility, structure, site or property; or

(13) any other building, structure, residence, facility, site, place, property, vehicle or any infrastructure thereof.

~~(b)~~(c) Criminal damage to property if the property:

(1) Is damaged to the extent of \$25,000 or more is a severity level 7, nonperson felony;

(2) is damaged to the extent of at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony; and

(3) damaged is of the value of less than \$1,000 or is of the value of \$1,000 or more and is damaged to the extent of less than \$1,000 is a class B nonperson misdemeanor.

(d) Aggravated criminal damage to property is a severity level 6, nonperson felony.

(e) (1) As used in subsection (b):

(A) "Infrastructure" includes any fixture to, attachment upon or part of a residence, building or structure's framework, electrical wiring and appurtenances, plumbing or heating and air systems; and

(B) "site" includes any area, place or location set aside for specific use or uses, including, but not limited to, storage, staging, repair, sorting, transportation, planning or



organization.

(2) Any of the items or locations listed in subsection (b) shall include the curtilage, adjoining land and any improvements thereupon.

(3) Nothing in subsection (b) shall be construed to require the:

(A) Construction or existence of any door, gate, fence, barrier or wall; or

(B) existence of notice, postings or signs to potential trespassers.

(f) In determining the amount of damage to property, damages may include the cost of repair or replacement of the property that was damaged, the reasonable cost of the loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.

Sec. 10. K.S.A. 2014 Supp. 21-6604 is hereby amended to read as follows: 21-6604. (a) Whenever any person has been found guilty of a crime, the court may adjudge any of the following:

(1) Commit the defendant to the custody of the secretary of corrections if the current crime of conviction is a felony and the sentence presumes imprisonment, or the sentence imposed is a dispositional departure to imprisonment; or, if confinement is for a misdemeanor, to jail for the term provided by law;

(2) impose the fine applicable to the offense and may impose the provisions of subsection (q);

(3) release the defendant on probation if the current crime of conviction and criminal history fall within a presumptive nonprison category or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate. In felony cases except for violations of K.S.A. 8-1567, 8-2,144 and K.S.A. 2014 Supp. 8-1025, and amendments thereto, the court may include confinement in a county jail not to exceed 60 days, which need not be served consecutively, as a condition of an original probation sentence;

(4) assign the defendant to a community correctional services program as provided in K.S.A. 75-5291, and amendments thereto, or through a departure for substantial and compelling reasons subject to such conditions as the court may deem appropriate, including orders requiring full or partial restitution;

(5) assign the defendant to a conservation camp for a period not to exceed six months as a condition of probation followed by a six-month period of follow-up through adult intensive supervision by a community correctional services program, if the offender successfully completes the conservation camp program;

(6) assign the defendant to a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto;

(7) order the defendant to attend and satisfactorily complete an alcohol or drug education or training program as provided by ~~subsection (e)~~ of K.S.A. 2014 Supp. 21-6602(c), and amendments thereto;

(8) order the defendant to repay the amount of any reward paid by any crime stoppers chapter, individual, corporation or public entity which materially aided in the apprehension or conviction of the defendant; repay the amount of any costs and expenses incurred by any law enforcement agency in the apprehension of the defendant, if one of the current crimes of conviction of the defendant includes escape from custody or aggravated escape from custody, as defined in K.S.A. 2014 Supp. 21-5911, and amendments thereto; repay expenses incurred by a fire district, fire department or fire

company responding to a fire which has been determined to be arson or aggravated arson as defined in K.S.A. 2014 Supp. 21-5812, and amendments thereto, if the defendant is convicted of such crime; repay the amount of any public funds utilized by a law enforcement agency to purchase controlled substances from the defendant during the investigation which leads to the defendant's conviction; or repay the amount of any medical costs and expenses incurred by any law enforcement agency or county. Such repayment of the amount of any such costs and expenses incurred by a county, law enforcement agency, fire district, fire department or fire company or any public funds utilized by a law enforcement agency shall be deposited and credited to the same fund from which the public funds were credited to prior to use by the county, law enforcement agency, fire district, fire department or fire company;

(9) order the defendant to pay the administrative fee authorized by K.S.A. 22-4529, and amendments thereto, unless waived by the court;

(10) order the defendant to pay a domestic violence special program fee authorized by K.S.A. 20-369, and amendments thereto;

(11) if the defendant is convicted of a misdemeanor or convicted of a felony specified in ~~subsection (i)~~ of K.S.A. 2014 Supp. 21-6804(i), and amendments thereto, assign the defendant to work release program, other than a program at a correctional institution under the control of the secretary of corrections as defined in K.S.A. 75-5202, and amendments thereto, provided such work release program requires such defendant to return to confinement at the end of each day in the work release program. On a second or subsequent conviction of K.S.A. 8-1567, and amendments thereto, an offender placed into a work release program shall serve the total number of hours of confinement mandated by that section;

(12) order the defendant to pay the full amount of unpaid costs associated with the conditions of release of the appearance bond under K.S.A. 22-2802, and amendments thereto;

(13) impose any appropriate combination of (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12); or

(14) suspend imposition of sentence in misdemeanor cases.

(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 2014 Supp. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. In regard to a violation of K.S.A. 2014 Supp. 21-5801, 21-5807 or 21-5813, and amendments thereto, such damage or loss shall include the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

(2) If the court orders restitution, the restitution shall be a judgment against the

defendant which may be collected by the court by garnishment or other execution as on judgments in civil cases. If, after 60 days from the date restitution is ordered by the court, a defendant is found to be in noncompliance with the plan established by the court for payment of restitution, and the victim to whom restitution is ordered paid has not initiated proceedings in accordance with K.S.A. 60-4301 et seq., and amendments thereto, the court shall assign an agent procured by the attorney general pursuant to K.S.A. 75-719, and amendments thereto, to collect the restitution on behalf of the victim. The chief judge of each judicial district may assign such cases to an appropriate division of the court for the conduct of civil collection proceedings.

(c) In addition to or in lieu of any of the above, the court shall order the defendant to submit to and complete an alcohol and drug evaluation, and pay a fee therefor, when required by ~~subsection (d)~~ of K.S.A. 2014 Supp. 21-6602(d), and amendments thereto.

(d) In addition to any of the above, the court shall order the defendant to reimburse the county general fund for all or a part of the expenditures by the county to provide counsel and other defense services to the defendant. Any such reimbursement to the county shall be paid only after any order for restitution has been paid in full. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

(e) In releasing a defendant on probation, the court shall direct that the defendant be under the supervision of a court services officer. If the court commits the defendant to the custody of the secretary of corrections or to jail, the court may specify in its order the amount of restitution to be paid and the person to whom it shall be paid if restitution is later ordered as a condition of parole, conditional release or postrelease supervision.

(f) (1) When a new felony is committed while the offender is incarcerated and serving a sentence for a felony, or while the offender is on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony, a new sentence shall be imposed consecutively pursuant to the provisions of K.S.A. 2014 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(2) When a new felony is committed during a period of time during which the defendant would have been on probation, assignment to a community correctional services program, parole, conditional release or postrelease supervision for a felony had the defendant not been granted release by the court pursuant to ~~subsection (d)~~ of K.S.A. 2014 Supp. 21-6608(d), and amendments thereto, or the prisoner review board pursuant to K.S.A. 22-3717, and amendments thereto, the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(3) When a new felony is committed while the offender is incarcerated in a juvenile correctional facility pursuant to K.S.A. 38-1671, prior to its repeal, or K.S.A. 2014 Supp. 38-2373, and amendments thereto, for an offense, which if committed by an adult would constitute the commission of a felony, upon conviction, the court shall sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure. The conviction shall operate as a full and complete discharge from any obligations, except for an order of restitution, imposed on the offender arising from the offense for which the offender was committed to a juvenile correctional facility.

(4) When a new felony is committed while the offender is on release for a felony pursuant to the provisions of article 28 of chapter 22 of the Kansas Statutes Annotated, and amendments thereto, or similar provisions of the laws of another jurisdiction, a new sentence may be imposed consecutively pursuant to the provisions of K.S.A. 2014 Supp. 21-6606, and amendments thereto, and the court may sentence the offender to imprisonment for the new conviction, even when the new crime of conviction otherwise presumes a nonprison sentence. In this event, imposition of a prison sentence for the new crime does not constitute a departure.

(g) Prior to imposing a dispositional departure for a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, prior to sentencing a defendant to incarceration whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2014 Supp. 21-6824, and amendments thereto, prior to revocation of a nonprison sanction of a defendant whose offense is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and whose offense does not meet the requirements of K.S.A. 2014 Supp. 21-6824, and amendments thereto, or prior to revocation of a nonprison sanction of a defendant whose offense is classified in the presumptive nonprison grid block of either sentencing guideline grid or grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, the court shall consider placement of the defendant in the Labette correctional conservation camp, conservation camps established by the secretary of corrections pursuant to K.S.A. 75-52,127, and amendments thereto, or a community intermediate sanction center. Pursuant to this subsection the defendant shall not be sentenced to imprisonment if space is available in a conservation camp or community intermediate sanction center and the defendant meets all of the conservation camp's or community intermediate sanction center's

placement criteria unless the court states on the record the reasons for not placing the defendant in a conservation camp or community intermediate sanction center.

(h) In committing a defendant to the custody of the secretary of corrections, the court shall fix a term of confinement within the limits provided by law. In those cases where the law does not fix a term of confinement for the crime for which the defendant was convicted, the court shall fix the term of such confinement.

(i) In addition to any of the above, the court shall order the defendant to reimburse the state general fund for all or part of the expenditures by the state board of indigents' defense services to provide counsel and other defense services to the defendant. In determining the amount and method of payment of such sum, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of such sum will impose. A defendant who has been required to pay such sum and who is not willfully in default in the payment thereof may at any time petition the court which sentenced the defendant to waive payment of such sum or any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the defendant's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment. The amount of attorney fees to be included in the court order for reimbursement shall be the amount claimed by appointed counsel on the payment voucher for indigents' defense services or the amount prescribed by the board of indigents' defense services reimbursement tables as provided in K.S.A. 22-4522, and amendments thereto, whichever is less.

(j) This section shall not deprive the court of any authority conferred by any other Kansas statute to decree a forfeiture of property, suspend or cancel a license, remove a person from office or impose any other civil penalty as a result of conviction of crime.

(k) An application for or acceptance of probation or assignment to a community correctional services program shall not constitute an acquiescence in the judgment for purpose of appeal, and any convicted person may appeal from such conviction, as provided by law, without regard to whether such person has applied for probation, suspended sentence or assignment to a community correctional services program.

(l) The secretary of corrections is authorized to make direct placement to the Labette correctional conservation camp or a conservation camp established by the secretary pursuant to K.S.A. 75-52,127, and amendments thereto, of an inmate sentenced to the secretary's custody if the inmate:

(1) Has been sentenced to the secretary for a probation revocation, as a departure from the presumptive nonimprisonment grid block of either sentencing grid, for an offense which is classified in grid blocks 5-H, 5-I or 6-G of the sentencing guidelines grid for nondrug crimes, in grid blocks 3-E, 3-F, 3-G, 3-H or 3-I of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, in grid blocks 4-E, 4-F, 4-G, 4-H or 4-I of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, or for an offense which is classified in grid blocks 4-E or 4-F of the sentencing guidelines grid for drug crimes committed prior to July 1, 2012, or in grid blocks 5-C, 5-D, 5-E or 5-F of the sentencing guidelines grid for drug crimes committed on or after July 1, 2012, and such offense does not meet the requirements of K.S.A. 2014 Supp. 21-6824, and amendments thereto; and

(2) otherwise meets admission criteria of the camp.

If the inmate successfully completes a conservation camp program, the secretary of

corrections shall report such completion to the sentencing court and the county or district attorney. The inmate shall then be assigned by the court to six months of follow-up supervision conducted by the appropriate community corrections services program. The court may also order that supervision continue thereafter for the length of time authorized by K.S.A. 2014 Supp. 21-6608, and amendments thereto.

(m) When it is provided by law that a person shall be sentenced pursuant to K.S.A. 1993 Supp. 21-4628, prior to its repeal, the provisions of this section shall not apply.

(n) (1) Except as provided by ~~subsection (f)~~ of K.S.A. 2014 Supp. 21-6630 and 21-6805(f), and amendments thereto, in addition to any of the above, for felony violations of K.S.A. 2014 Supp. 21-5706, and amendments thereto, the court shall require the defendant who meets the requirements established in K.S.A. 2014 Supp. 21-6824, and amendments thereto, to participate in a certified drug abuse treatment program, as provided in K.S.A. 2014 Supp. 75-52,144, and amendments thereto, including, but not limited to, an approved after-care plan. The amount of time spent participating in such program shall not be credited as service on the underlying prison sentence.

(2) If the defendant fails to participate in or has a pattern of intentional conduct that demonstrates the defendant's refusal to comply with or participate in the treatment program, as established by judicial finding, the defendant shall be subject to sanction or revocation pursuant to the provisions of K.S.A. 22-3716, and amendments thereto. If the defendant's probation is revoked, the defendant shall serve the underlying prison sentence as established in K.S.A. 2014 Supp. 21-6805, and amendments thereto.

(A) Except as provided in subsection (n)(2)(B), for those offenders who are convicted on or after July 1, 2003, but prior to July 1, 2013, upon completion of the underlying prison sentence, the offender shall not be subject to a period of postrelease supervision.

(B) Offenders whose crime of conviction was committed on or after July 1, 2013, and whose probation is revoked pursuant to ~~subsection (e)~~ of K.S.A. 22-3716(c), and amendments thereto, or whose underlying prison term expires while serving a sanction pursuant to ~~subsection (e)(1)(C) or (e)(1)(D)~~ of K.S.A. 22-3716(c)(1)(C) or (c)(1)(D), and amendments thereto, shall serve a period of postrelease supervision upon the completion of the underlying prison term.

(o) (1) Except as provided in paragraph (3), in addition to any other penalty or disposition imposed by law, upon a conviction for unlawful possession of a controlled substance or controlled substance analog in violation of K.S.A. 2014 Supp. 21-5706, and amendments thereto, in which the trier of fact makes a finding that the unlawful possession occurred while transporting the controlled substance or controlled substance analog in any vehicle upon a highway or street, the offender's driver's license or privilege to operate a motor vehicle on the streets and highways of this state shall be suspended for one year.

(2) Upon suspension of a license pursuant to this subsection, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.

(3) (A) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person as provided in paragraph (1), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year.

(B) Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this paragraph a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this paragraph.

(C) Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this paragraph, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(4) As used in this subsection, "highway" and "street" mean the same as in K.S.A. 8-1424 and 8-1473, and amendments thereto.

(p) In addition to any of the above, for any criminal offense that includes the domestic violence designation pursuant to K.S.A. 2014 Supp. 22-4616, and amendments thereto, the court shall require the defendant to: (1) Undergo a domestic violence offender assessment conducted by a certified batterer intervention program; and (2) follow all recommendations made by such program, unless otherwise ordered by the court or the department of corrections. The court may order a domestic violence offender assessment and any other evaluation prior to sentencing if the assessment or evaluation would assist the court in determining an appropriate sentence. The entity completing the assessment or evaluation shall provide the assessment or evaluation and recommendations to the court and the court shall provide the domestic violence offender assessment to any entity responsible for supervising such defendant. A defendant ordered to undergo a domestic violence offender assessment shall be required

to pay for the assessment and, unless otherwise ordered by the court or the department of corrections, for completion of all recommendations.

(q) In imposing a fine, the court may authorize the payment thereof in installments. In lieu of payment of any fine imposed, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed by the later of one year after the fine is imposed or one year after release from imprisonment or jail, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance shall become due on that date. If conditional reduction of any fine is rescinded by the court for any reason, then pursuant to the court's order the person may be ordered to perform community service by one year after the date of such rescission or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date. All credits for community service shall be subject to review and approval by the court.

(r) In addition to any other penalty or disposition imposed by law, for any defendant sentenced to imprisonment pursuant to K.S.A. 21-4643, prior to its repeal, or K.S.A. 2014 Supp. 21-6627, and amendments thereto, for crimes committed on or after July 1, 2006, the court shall order that the defendant be electronically monitored upon release from imprisonment for the duration of the defendant's natural life and that the defendant shall reimburse the state for all or part of the cost of such monitoring as determined by the prisoner review board.

(s) Whenever the court has released the defendant on probation pursuant to subsection (a)(3), the defendant's supervising court services officer, with the concurrence of the chief court services officer, may impose the violation sanctions as provided in ~~subsection (c)(1)(B) of K.S.A. 22-3716(c)(1)(B)~~, and amendments thereto, without further order of the court, unless:

- (1) The court has specifically withheld this authority in its sentencing order; or
- (2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to ~~subsection (b) of K.S.A. 22-3716(b)~~, and amendments thereto, refuses to waive such right.

(t) Whenever the court has assigned the defendant to a community correctional services program pursuant to subsection (a)(4), the defendant's community corrections officer, with the concurrence of the community corrections director, may impose the violation sanctions as provided in ~~subsection (c)(1)(B) of K.S.A. 22-3716(c)(1)(B)~~, and amendments thereto, without further order of the court unless:

- (1) The court has specifically withheld this authority in its sentencing order; or
- (2) the defendant, after being apprised of the right to a revocation hearing before the court pursuant to ~~subsection (b) of K.S.A. 22-3716(b)~~, and amendments thereto, refuses to waive such right.

Sec. 11. K.S.A. 2014 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:



SENTENCING RANGE - NONDRUG OFFENSES

Category ↓	A	B	C	D	E	F	G	H	I
Severity Level ↓	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	633 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 36 34	34 32 31
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	18 17 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

<b>LEGEND</b>
Presumptive Probation
Presumptive Imprisonment

(b) Sentences expressed in the sentencing guidelines grid for nondrug crimes represent months of imprisonment.

(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.

(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.

(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:

(A) Prison sentence;  
 (B) maximum potential reduction to such sentence as a result of good time; and  
 (C) period of postrelease supervision at the sentencing hearing. Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.

(3) In presumptive nonprison cases, the sentencing court shall pronounce the:

(A) Prison sentence; and  
 (B) duration of the nonprison sanction at the sentencing hearing.

(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).

(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of ~~subsection (d) of~~ K.S.A. 2014 Supp. 21-5412(d), and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A. 2014 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, ~~subsection (b)(3) of~~ K.S.A. 2014 Supp. 21-5414(b)(3), ~~subsections (b)(3) and (b)(4) of~~ K.S.A. 2014 Supp. 21-5823(b)(3) and (b)(4), K.S.A. 2014 Supp. 21-6412 and K.S.A. 2014 Supp. 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 2014 Supp.

21-6807, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 2014 Supp. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 2014 Supp. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 2014 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, ~~subsection (b)(3) of K.S.A. 2014 Supp. 21-5414(b)(3), subsections (b)(3) and (b)(4) of K.S.A. 2014 Supp. 21-5823(b)(3) and (b)(4),~~ K.S.A. 2014 Supp. 21-6412 and K.S.A. 2014 Supp. 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 2014 Supp. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 2014 Supp. 21-6609, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2014 Supp. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may

impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

- (A) The commission of one or more person felonies; or
- (B) the commission of felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; and
- (C) its members have a common name or common identifying sign or symbol; and
- (D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation of ~~subsection (a)(1) of K.S.A. 2014 Supp. 21-5807(a)(1), and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2014 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715(a) or (b), prior to its repeal, 21-3716, prior to its repeal, subsection (a)(1) or (a)(2) of K.S.A. 2014 Supp. 21-5807(a)(1) or (a)(2), or subsection (b) of K.S.A. 2014 Supp. 21-5807(b), and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment.~~

(m) The sentence for a violation of K.S.A. 22-4903 ~~or subsection (a)(2) of K.S.A. 2014 Supp. 21-5913(a)(2), and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).~~

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 2014 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of ~~subsection (b) of K.S.A. 21-3705(b), prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 2014 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.~~

(o) The sentence for a felony violation of theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary as defined in ~~subsection (a) of K.S.A. 2014 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary as defined in subsection (a) of K.S.A. 2014 Supp. 21-5807(a), and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, when such~~

person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2014 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2014 Supp. 21-5807, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of ~~subsection (f)(1)~~ of K.S.A. 2014 Supp. 21-6824(f)(1), and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(p) The sentence for a felony violation of theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2014 Supp. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in ~~subsection (a)~~ of K.S.A. 2014 Supp. 21-5807(a), and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2014 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2014 Supp. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that the court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

- (1) Substance abuse was an underlying factor in the commission of the crime;
- (2) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
- (3) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the

secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(q) As used in this section, an "optional nonprison sentence" is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of ~~subsection (c)(2)~~ of K.S.A. 2014 Supp. 21-5413(c)(2), and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(s) The sentence for a violation of K.S.A. 2014 Supp. 21-5512, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months' imprisonment.

(2) The sentence imposed pursuant to subsection (t)(1) shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) As used in this subsection, "ballistic resistant material" means: (A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and (B) any homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A. 2014 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2014 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2014 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(v) The sentence for a third or subsequent violation of K.S.A. 8-1568, and amendments thereto, shall be presumptive imprisonment and shall be served

consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(w) The sentence for aggravated criminal damage to property as defined in K.S.A. 2014 Supp. 21-5813(b), and amendments thereto, when such person being sentenced has a prior conviction for any nonperson felony shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

Sec. 12. K.S.A. 2014 Supp. 50-6,109 is hereby amended to read as follows: 50-6,109. (a) As used in K.S.A. 2014 Supp. 50-6,112a through 50-6,112e, and amendments thereto, and K.S.A. 2014 Supp. 50-6,109 through 50-6,112 50-6,112c, section 1, section 2, section 3, section 4, section 5 and section 6, and amendments thereto, shall be known and may be cited as the scrap metal theft reduction act.

(b) As used in the scrap metal theft reduction act:

(a) (1) "Scrap metal dealer" means any person individual, firm, company, partnership, association or corporation that operates a business out of a fixed location, and that is also either:

(1) Engaged in the business of buying and dealing in regulated scrap metal;

(2) purchasing, gathering, collecting, soliciting or procuring regulated scrap metal;

or

(3) operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer that is engaged in the business of buying, trading or dealing in regulated scrap metal for the purpose of sale for recycling.

(b) "Regulated scrap metal yard" means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer:

(c) (2) "Regulated scrap metal" shall mean wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum, catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 2014 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers means any item, in any form, for which the purchase price described in K.S.A. 2014 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content of:

(A) Aluminum, except that aluminum shall not include food or beverage containers;

(B) copper;

(C) brass;

(D) bronze;

(E) stainless steel;

(F) zinc;

(G) titanium;

(H) tungsten;

(I) nickel;

(J) platinum;  
(K) palladium;  
(L) rhodium;  
(M) magnesium;  
(N) lead;  
(O) any other nonferrous metal; or  
(P) any combination of nonferrous metals listed in subsections (b)(2)(A) through (b)(2)(P).

~~(4)~~(3) "Bales of regulated metal" means regulated scrap metal property processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.

~~(c)~~ "Ferrous metal" means a metal that contains iron or steel.

~~(4)~~(4) "Junk vehicle" means a vehicle as defined in K.S.A. 8-126, and amendments thereto, not requiring a title as provided in chapter 8 of the Kansas Statutes Annotated, and amendments thereto, an aircraft, or a boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap which is being sold for scrap value.

~~(5)~~(5) "Nonferrous metal" means a metal that does not contain iron or steel, including but not limited to: Copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

~~(h)~~ "Tin" means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.

~~(6)~~(6) "Vehicle part" means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit; ~~or any other vehicle part.~~

(7) "Person" means any individual, scrap metal dealer, manager or employee, owner, operator, corporation, partnership or association.

(8) "Attorney general" means the attorney general of the state of Kansas or the attorney general's designee.

Sec. 13. K.S.A. 2014 Supp. 50-6,110 is hereby amended to read as follows: 50-6,110. (a) ~~Except as provided in subsection (d),~~ It shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this state unless such person meets the requirements of this subsection.

(1) Such person shall ~~presents~~ present to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following ~~information~~: The seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license. The identifying number from An official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

(2) Such person shall complete and sign the statement provided for in subsection (b)(10).

(b) Every scrap metal dealer shall keep a register in which the dealer, or employee



or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:

(1) The time, date and place of transaction;

(2) the seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;

(3) a copy of the identification card or document containing such identifying number;

(4) the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;

(5) a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;

(6) the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;

(7) if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;

(8) ~~the amount of consideration given in a purchase price paid for, traded for or dealt for in a~~ transaction for the junk vehicle or other regulated scrap metal property; ~~and~~

(9) ~~the full~~ name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase; ~~and~~

(10) ~~a signed statement from the seller indicating from where the property was obtained and that: (A) Each item is the seller's own personal property, is free of encumbrances and is not stolen; or (B) the seller is acting for the owner and has permission to sell each item. If the seller is not the owner, such statement shall include the name and address of the owner of the property.~~

~~(c) Every scrap metal dealer shall photograph both the seller and the item or lot of items being sold at the time of purchase or receipt of any item for which such information is required to be presented. Such photographs shall be kept with the record of the transaction and the scrap metal dealer's register of information required by subsection (b).~~

~~(d) The scrap metal dealer's register of information required by subsection (b), including copies of identification cards and signed statements by sellers, and photographs required by subsection (c) may be kept in electronic format.~~

~~(e) Every scrap metal dealer shall forward the information required by this section to the database described in section 1, and amendments thereto.~~

~~(d) Notwithstanding the foregoing, this section shall not apply to:~~

~~(1) Transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is \$50.00 or less;~~

~~(2) transactions involving only catalytic converters for which the total sale price is~~

\$30.00 or less;

(3) ~~transactions in which the seller is also a scrap metal dealer; or~~  
 (4) ~~transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.~~

(e) ~~The exceptions contained in subsections (d)(1) and (d)(2) shall not apply to any purchase from any seller of the following materials:~~

- (1) ~~Catalytic converters purchased separate from a vehicle;~~
- (2) ~~coated or insulated wire or stripped wire or burnt wire;~~
- (3) ~~refrigeration condensing units or air conditioning coils of any type; or~~
- (4) ~~copper tubing, bars, plate, buss bar and sheet copper.~~

(f) ~~It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (e)(1) through (4) by any means other than:~~

(1) ~~A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b); or~~

(2) ~~a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b).~~

(f) Notwithstanding any other provision to the contrary, this section shall not apply to transactions in which the seller is a:

- (1) Registered scrap metal dealer;
- (2) vehicle dealer licensed under chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or
- (3) scrap metal dealer or vehicle dealer registered or licensed in another state.

(g) (1) Except as provided in subsection (g)(2), this section shall not apply to transactions in which the seller is known to the purchasing scrap metal dealer to be a licensed business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

(2) The attorney general may determine, by rules and regulations, which of the requirements of this section shall apply to transactions described in subsection (g)(1).

Sec. 14. K.S.A. 2014 Supp. 50-6,111 is hereby amended to read as follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2014 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 2014 Supp. 50-6,110, and amendments thereto. All records kept in accordance with the provisions of ~~this the scrap metal theft reduction~~ act shall be open at all times to ~~peace or~~ law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to ~~peace or~~ law enforcement officers upon request.

(b) ~~It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2014 Supp. 50-6,110, and amendments thereto, requires information to be~~

~~presented by the seller, without obtaining from the seller a signed statement that: (1) Each item is the seller's own personal property, is free of encumbrances and is not stolen; or (2) that the seller is acting for the owner and has permission to sell each item.~~

~~(e)-(b)~~ It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 2014 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without:

(1) Inspecting the vehicle offered for sale and recording the vehicle identification number; and

(2) obtaining an appropriate ~~vehicle title or~~ bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.

~~(d)-(c)~~ It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor unless such minor is accompanied by a parent or guardian or such minor is a licensed scrap metal dealer.

~~(e)-(d)~~ It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items ~~of regulated scrap metal property~~ without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item ~~of regulated scrap metal property~~ on behalf of the governmental entity; utility provider; railroad; cemetery; civic organization; manufacturing, industrial or other commercial vendor that generates or sells such items in the regular course of business; or scrap metal dealer:

- (1) Utility access cover;
- (2) street light poles or fixtures;
- (3) road or bridge guard rails;
- (4) highway or street sign;
- (5) water meter cover;
- (6) traffic directional or traffic control signs;
- (7) traffic light signals;
- (8) any metal marked with any form of the name or initials of a governmental entity;
- (9) property owned and marked by a telephone, cable, electric, water or other utility provider;

- (10) property owned and marked by a railroad;
- (11) funeral markers or vases;
- (12) historical markers;
- (13) bales of regulated metal;
- (14) beer kegs;
- (15) manhole covers;
- (16) fire hydrants or fire hydrant caps;
- (17) junk vehicles with missing or altered vehicle identification numbers;
- (18) real estate signs;
- (19) bleachers or risers, in whole or in part; ~~and~~
- (20) twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge; and
- (21) burnt wire.

~~(f)-(e)~~ It shall be unlawful for any scrap metal dealer, or employee or agent of the

dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for 30 days, exclusive of weekends and holidays.

Sec. 15. K.S.A. 2014 Supp. 50-6,112a is hereby amended to read as follows: 50-6,112a. ~~(a) No business shall~~ A scrap metal dealer shall not purchase any regulated scrap metal without having first registered each place of business with the attorney general as herein provided. In case such place of business is located within the corporate limits of a city, the registration shall be made to the governing body of such city. In all other cases, the registration shall be made to the board of county commissioners in the county in which such place of business is to be located.

~~(b) A board of county commissioners shall provide the clerk of the township with written notice of the filing of a registration by a scrap metal dealer within 10 days of registration or renewal.~~

~~(c) The governing body of any city and the board of county commissioners shall provide the sheriff, chief of police or director of all law enforcement agencies in the county written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.~~

(b) The attorney general shall establish a system for the public to confirm scrap metal dealer registration certificates. Such system shall include a listing of valid registration certificates and such other information collected pursuant to the scrap metal theft reduction act, as the attorney general may determine is appropriate. Disclosure of any information through use of the system established by the attorney general shall not be deemed to be an endorsement of any scrap metal dealer or determination of any facts, qualifications, information or reputation of any scrap metal dealer by the attorney general, the state, or any of their respective agents, officers, employees or assigns.

~~(d)-(c)~~ A registration for a scrap metal dealer shall be verified and upon a form approved by the attorney general and contain:

(1) (A) The name and residence of the applicant, including all previous names and aliases; or

(B) if the applicant is a Corporation, the name and address of each manager, officer or director thereof, and each stockholder owning in the aggregate more than 25% of the stock of such corporation; or partnership or limited liability company, the name and address of each partner or member;

(2) the length of time that the applicant has resided within the state of Kansas and a list of all residences outside the state of Kansas during the previous 10 years;

(3) the particular place of business for which a registration is desired, the name of the business, the address where the business is to be conducted, the hours of operation and the days of the week during which the applicant proposes to engage in business;

(4) the name of the owner of the premises upon which the place of business is located; and

(5) the applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for: ~~Theft, as defined in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2014 Supp. 21-5801, and amendments thereto, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its~~

~~repeal, or K.S.A. 2014 Supp. 21-5802, and amendments thereto; theft of services, as defined in K.S.A. 21-3704, prior to its repeal; criminal deprivation of property, as defined in K.S.A. 21-3705, prior to its repeal, or K.S.A. 2014 Supp. 21-5803, and amendments thereto; or any other crime involving possession of stolen property. A violation of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2014 Supp. 21-5801 through 21-5839 or K.S.A. 2014 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2014 Supp. 21-5903, and amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal; interference with law enforcement, K.S.A. 2014 Supp. 21-5904, and amendments thereto; interference with judicial process, K.S.A. 2014 Supp. 21-5905, and amendments thereto; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.~~

~~(e)(d)~~ Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of not less than \$100 nor more than \$400, as prescribed by the board of county commissioners or the governing body of the city, as the case may be \$500 nor more than \$1,500, as prescribed by the attorney general for each particular place of business for which a registration is desired.

~~(f)(e)~~ The board of county commissioners or the governing body of a city attorney general shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer engaged in business in such county or city and qualified to file such registration, to purchase regulated scrap metals. Such registration shall be issued for a period of ~~10 years~~ one year.

~~(g)(f)~~ If an original registration is accepted, the governing body of the city or the board of county commissioners attorney general shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The registration fee for such renewal shall be not less than \$25 nor more than \$50 renewal fee shall be not more than \$1,500, as prescribed by the attorney general.

~~(h)(g)~~ No ~~Any~~ registration issued under ~~this~~ the scrap metal theft reduction act shall ~~not~~ be transferable.

~~(i)~~ Violation of subsection (a) is a class A nonperson misdemeanor.

~~(j)(h)~~ This section shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

Sec. 16. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112b is hereby amended to read as follows: 50-6,112b. (a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the governing body of the city or the board of county commissioners attorney general shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

(1) A person who is not a citizen or legal permanent resident of the United States.

(2) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from

registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under ~~this~~ the scrap metal theft reduction act.

~~(2)-(3)~~ (3) A person who, within ~~five~~ 10 years immediately preceding the date of filing, has pled guilty to, entered into a diversion agreement for, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of: Article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2014 Supp. 21-5801 through 21-5839 ~~and subsection (a)(6) of~~ or K.S.A. 2014 Supp. 21-6412; ~~(a)(6), and amendments thereto;~~ perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2014 Supp. 21-5903, and amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal; interference with law enforcement, K.S.A. 2014 Supp. 21-5904, and amendments thereto; interference with judicial process, K.S.A. 2014 Supp. 21-5905, and amendments thereto; or any crime involving ~~moral turpitude~~ dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

~~(3)~~ A person who, within the ~~five~~ years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of K.S.A. 2014 Supp. 50-6-112a, and amendments thereto; ~~K.S.A. 50-6-109 et seq., and amendments thereto,~~ the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase of regulated scrap metal ~~three or more times.~~

(4) A person who within the ~~three~~ 10 years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three 10 years.

(6) A partnership or limited liability company, unless all partners or members of the partnership or limited liability company are otherwise qualified to file a registration.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under ~~this~~ the scrap metal theft reduction act.

(10) A person who does not own the premises upon which the place of business is located for which a license is sought, unless the person has a written lease for at least <sup>3</sup>/<sub>4</sub> of the period for which the license is to be issued.

(c) Any person filing a scrap metal dealer registration may be subject to a criminal history records check and may be given a written notice that a criminal history records check is required. The attorney general may require such applicant to be fingerprinted

and submit to a state and national criminal history record check. If required, such fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The attorney general shall submit any fingerprints provided to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the attorney general in the taking and processing of fingerprints of applicants. The attorney general may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the applicant and in the official determination of whether the scrap metal dealer registration shall be accepted. If the criminal history record information is used to disqualify an applicant, the applicant shall be informed in writing of that decision.

Sec. 17. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112c is hereby amended to read as follows: 50-6,112c. (a) ~~The board of county commissioners or the governing body of any city~~ attorney general, upon five days notice to the persons holding a registration, may suspend the scrap metal dealer's registration for up to 30 days for any one of the following reasons:

(1) ~~The registrant has been convicted of violating~~ found to have violated any of the provisions of ~~K.S.A. 50-6,109 et seq., and amendments thereto~~ the scrap metal theft reduction act, or any similar ordinance, resolution or rules or regulations ~~made by the board or the city, as the case may be;~~

(2) the employment or continuation in employment of a person if the registered scrap metal dealer knows such person has, within the 24 months prior to the notice of suspension or revocation action, ~~been convicted of violating~~ found to have violated any of the provisions of ~~K.S.A. 50-6,109 et seq., and amendments thereto~~ the scrap metal theft reduction act, or the laws of another state comparable to such provisions, or any city or county ordinance or resolution, or regulation controlling scrap metal sale or purchase in Kansas or any other state; or

(3) permitting any criminal activity under the Kansas criminal code, or similar ordinance, resolution or rules or regulations made by the board or city, as the case may be, in or upon the registrant's place of business.

~~(b)-(c) The board of county commissioners or the governing body of any city~~ attorney general may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times within a 24-month period.

~~(e)-(d) The board of county commissioners or the governing body of any city~~ attorney general, upon five days' notice to the person holding the registration, shall revoke or suspend the registration for any one of the following reasons:

(1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;

(2) the registrant has become ineligible to obtain a registration under ~~this~~ the scrap metal theft reduction act;

(3) the nonpayment of any registration fees after receiving written notice that such registration fees are more than 30 days past due; or

(4) ~~within 20 days after the order of the board denying, revoking or suspending any registration, the registrant may appeal to the district court and the district court shall proceed to hear such appeal as though the court had original jurisdiction of the matter. Upon request by the registrant, the district court may enjoin the revocation or~~

suspension of a registration until final disposition of any action brought under this act the nonpayment of any civil penalty after receiving written notice that such penalty is more than 30 days past due.

~~(d)-(e)~~ Any action brought under ~~subsections (a), (b) or (c)~~ this section shall be brought individually against a single registrant's ~~site~~ place of business and not against any other ~~scrap metal sites or locations~~ place of business registered by the same individual, company or business entity.

(f) Any person aggrieved by the decision of the attorney general to suspend or revoke a registration under this section may appeal such decision in accordance with rules and regulations promulgated by the attorney general to implement the scrap metal theft reduction act.

Sec. 18. K.S.A. 2014 Supp. 21-5804, 21-5813, 21-6604, 21-6604c, 21-6804, 50-6,109, 50-6,110, 50-6,111, 50-6,112 and 50-6,112a are hereby repealed.

Sec. 19. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112b and 50-6,112c are hereby repealed.";

And by renumbering remaining sections accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in line 2; in line 3, by striking all before the period and inserting "regulated scrap metal; relating to the crimes of theft and criminal damage to property; sentencing; evidence at preliminary examination; regulation of scrap metal dealers; unlawful acts; penalties; creating the scrap metal theft reduction fee fund; amending K.S.A. 2014 Supp. 21-5804, 21-5813, 21-6604, 21-6804, 50-6,109, 50-6,110, 50-6,111, 50-6,112a, 50-6,112b and 50-6,112c and repealing the existing sections; also repealing K.S.A. 2014 Supp. 21-6604c and 50-6,112";

And your committee on conference recommends the adoption of this report.

JEFF KING

GREG SMITH

PAT PETTEY

*Conferees on part of Senate*

JOHN E. BARKER

CHARLES MACHEERS

JOHN CARMICHAEL

*Conferees on part of House*

On motion of Rep. Todd, to adopt the conference committee report on **HB 2048**, Rep. Rubin offered a substitute motion to not adopt the conference committee report and that a new conference committee be appointed.

Roll call was demanded.

On roll call, the vote was: Yeas 40; Nays 64; Present but not voting: 0; Absent or not voting: 21.

Yeas: Alford, Ballard, Becker, Bradford, Couture-Lovelady, Clayton, Corbet, Curtis, Esau, Finney, Frownfelter, Grosserode, Henderson, Henry, Highberger, Hildabrand, Houser, Kelley, Kuether, Lusk, Lusker, McPherson, O'Brien, Ousley, Peck, Read, Rubin, Ruiz, Sawyer, Scapa, Smith, Sutton, Thimesch, Tietze, Trimmer, Victors, Ward, Williams, Wilson, Wolfe Moore.

Nays: Alcalá, Anthimides, Barker, Barton, Billinger, Boldra, Burroughs, Carmichael,



B. Carpenter, W. Carpenter, Clark, Concannon, Davis, Dierks, Doll, Dove, Edmonds, Estes, Ewy, Finch, Francis, Gallagher, Goico, Gonzalez, Hawkins, Hemsley, Hibbard, Hill, Hineman, Hoffman, Huebert, Hutchins, Hutton, Jennings, Johnson, D. Jones, Kelly, Kleeb, Lane, Lewis, Lunn, Macheers, Mason, Mast, Merrick, Moxley, Osterman, Pauls, Phillips, Powell, Proehl, Rooker, Ryckman, Ryckman Sr., Schroeder, Schwab, Schwartz, Seiwert, Swanson, Thompson, Todd, Vickrey, Waymaster, Whitmer.

Present but not voting: None.

Absent or not voting: Bollier, Bridges, Bruchman, Brunk, Campbell, Carlin, Claey's, DeGraaf, Garber, Hedke, Highland, Houston, K. Jones, Kahrs, Kiegerl, Patton, Rhoades, Sloan, Suellentrop, Whipple, Winn.

The substitute motion did not prevail.

The question reverted back to the original motion of Rep. Todd and the conference committee report on **HB 2048** was adopted.

On roll call, the vote was: Yeas 73; Nays 32; Present but not voting: 0; Absent or not voting: 20.

Yeas: Alcalá, Alford, Anthimides, Barker, Becker, Billinger, Boldra, Bradford, Brunk, Carmichael, B. Carpenter, Clark, Concannon, Davis, Dierks, Doll, Dove, Edmonds, Estes, Ewy, Finch, Finney, Francis, Gallagher, Goico, Gonzalez, Hawkins, Hemsley, Henderson, Henry, Hibbard, Hill, Hineman, Hoffman, Huebert, Hutchins, Hutton, Jennings, Johnson, D. Jones, Kelly, Kleeb, Kuether, Lane, Lewis, Lunn, Lusker, Macheers, Mason, Mast, Moxley, O'Brien, Osterman, Pauls, Phillips, Powell, Proehl, Rooker, Ryckman, Ryckman Sr., Sawyer, Schroeder, Schwab, Schwartz, Seiwert, Swanson, Todd, Vickrey, Victors, Ward, Waymaster, Whitmer, Wilson.

Nays: Ballard, Barton, Burroughs, Couture-Lovelady, W. Carpenter, Clayton, Corbet, Curtis, Esau, Frownfelter, Grosserode, Highberger, Hildabrand, Houser, Kelley, Kiegerl, McPherson, Merrick, Ousley, Peck, Read, Rubin, Ruiz, Scapa, Smith, Sutton, Thimesch, Thompson, Tietze, Trimmer, Williams, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Bollier, Bridges, Bruchman, Campbell, Carlin, Claey's, DeGraaf, Garber, Hedke, Highland, Houston, K. Jones, Kahrs, Lusk, Patton, Rhoades, Sloan, Suellentrop, Whipple, Winn.

On motion of Rep. Vickrey, the House recessed until 2:30 p.m.

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#### AFTERNOON SESSION

The House met pursuant to recess with Speaker pro tem Mast in the chair.

#### MESSAGES FROM THE GOVERNOR

**HB 2183, HB 2223, S Sub for HB 2228, HB 2352** approved on June 5, 2015.

#### INTRODUCTION OF ORIGINAL MOTIONS

On motion of Rep. Vickrey, pursuant to subsection (k) of Joint Rule 4 of the Joint Rules of the Senate and House of Representatives, the rules were suspended for the purpose of considering **SB 206**.

## INTRODUCTION OF ORIGINAL MOTIONS

On emergency motion of Rep. Vickrey, **SB 206** was advanced to Final Action on Bills and Concurrent Resolutions, subject to amendment, debate and roll call.

## FINAL ACTION ON BILLS AND CONCURRENT RESOLUTIONS

Committee reports to **SB 206** were adopted.

**SB 206**, AN ACT concerning the vision care services act; relating to powers and duties of the commissioner of insurance; powers and duties of the attorney general; amending K.S.A. 2014 Supp. 40-5905 and 40-5906 and repealing the existing sections, was considered on final action.

On roll call, the vote was: Yeas 108; Nays 0; Present but not voting: 0; Absent or not voting: 17.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Barton, Becker, Billinger, Boldra, Bradford, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, W. Carpenter, Clark, Clayton, Concannon, Corbet, Curtis, Davis, Dierks, Doll, Dove, Edmonds, Esau, Estes, Ewy, Finch, Finney, Francis, Frownfelter, Gallagher, Goico, Gonzalez, Grosserode, Hawkins, Hemsley, Henderson, Henry, Hibbard, Highberger, Hildabrand, Hill, Hineman, Hoffman, Houser, Hutchins, Hutton, Jennings, Johnson, D. Jones, Kelley, Kelly, Kiegerl, Kleeb, Kuether, Lane, Lewis, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Moxley, Osterman, Ousley, Pauls, Peck, Phillips, Powell, Proehl, Read, Rooker, Rubin, Ruiz, Ryckman, Ryckman Sr., Sawyer, Scapa, Schroeder, Schwab, Schwartz, Seiwert, Smith, Suellentrop, Sutton, Swanson, Thimesch, Thompson, Tietze, Todd, Trimmer, Vickrey, Victors, Ward, Waymaster, Whitmer, Williams, Wilson, Wolfe Moore.

Nays: None.

Present but not voting: None.

Absent or not voting: Bollier, Bridges, Claeys, DeGraaf, Garber, Hedke, Highland, Houston, Huebert, K. Jones, Kahrs, O'Brien, Patton, Rhoades, Sloan, Whipple, Winn.

The bill passed, as amended.

## CONFERENCE COMMITTEE REPORTS

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 270** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House on Final Action amendments, as follows: On page 49, in line 37, before the period by inserting ", and prior to July 1, 2021";

On page 50, in line 1, after the period by inserting "No resident individual shall enroll and be eligible to participate in this program after June 30, 2021."; in line 11, before the comma by inserting "until January 1, 2022"; in line 17, before "there" by inserting "and before January 1, 2022,"; in line 22, before "and" by inserting "and prior to January 1, 2021,";

On page 51, following line 2, by inserting:

"New Sec. 9. (a) As used in this section:

(1) "Business entity" means a limited liability company, S corporation, partnership, association, sole proprietorship, joint venture or other similar form of business

organization. The term "business entity" shall not include any business organization subject to the income tax on corporations under K.S.A. 79-32,110(c), and amendments thereto, the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto;

(2) "qualified income" means:

(A) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return;

(B) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and

(C) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; and

(3) "qualified loss" means:

(A) Net loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return;

(B) net loss from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and

(C) net farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return.

(b) For tax year 2015, and all tax years thereafter, any individual who has an ownership interest in a business entity shall be eligible for the lowest marginal individual income tax rate applicable under K.S.A. 79-32,110, and amendments thereto, with respect to qualified income received from such business. Any qualified income of the individual received from a business entity shall be taxed at the lowest rate for resident individuals pursuant to, and computed in accordance with, the tax schedules listed in K.S.A. 79-32,110, and amendments thereto. Remaining income of the individual shall be taxed pursuant to, and computed in accordance with, the tax schedules listed in K.S.A. 79-32,110, and amendments thereto, without regard to the provisions of this section.

(c) The director of taxation shall not assess any penalties or interest arising from the underpayment of taxes under this section which occurs before April 15, 2016.

(d) The secretary of revenue shall adopt all necessary rules and regulations to implement and administer the provisions of this section.

Sec. 10. K.S.A. 2014 Supp. 79-32,110 is hereby amended to read as follows: 79-32,110.

(a) *Resident Individuals.* Except as otherwise provided by ~~subsection (a)~~ of K.S.A. 79-3220(a) and section 9, and amendments thereto, a tax is hereby imposed upon the Kansas taxable income of every resident individual, which tax shall be computed in

accordance with the following tax schedules:

(1) *Married individuals filing joint returns.*

(A) For tax year 2012:

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

(B) For tax year 2013:

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

(C) For tax year 2014:

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

(D) For tax year ~~years~~ 2015 through 2018:

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

(E) For tax year ~~2016~~ 2019:

If the taxable income is:	The tax is:
Not over \$30,000.....	2.4% of Kansas
taxable income	
Over \$30,000.....	\$720 plus <del>4.6%</del>
<u>4.5%</u> of excess over	
	\$30,000

(F) For tax year ~~2017~~ 2020, and all tax years thereafter:

If the taxable income is:	The tax is:
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Not over \$30,000.....	2.3% of Kansas taxable income
Over \$30,000.....	\$690 plus <del>4.6%</del> 4.3% of excess over
	\$30,000

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

<del>If the taxable income is:</del>	<del>The tax is:</del>
<del>Not over \$30,000.....</del>	<del>2.3% of Kansas taxable income</del>
<del>Over \$30,000.....</del>	<del>\$690 plus 3.9% of excess over</del>
	\$30,000

(2) *All other individuals.*

(A) For tax year 2012:

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

(B) For tax year 2013:

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

(C) For tax year 2014:

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

(D) ~~For tax year years 2015 through 2018:~~

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

excess over

\$15,000

(E) For tax year ~~2016~~ 2019:

If the taxable income is:	The tax is:
Not over \$15,000.....	2.4% of Kansas taxable income
Over \$15,000.....	\$360 plus <del>4.6%</del> <u>4.5%</u> of excess over
	\$15,000

(F) For tax year ~~2017~~ 2020, and all tax years thereafter:

If the taxable income is:	The tax is:
Not over \$15,000.....	2.3% of Kansas taxable income
Over \$15,000.....	\$345 plus <del>4.6%</del> <u>4.3%</u> of excess over
	\$15,000

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

<del>If the taxable income is:</del>	<del>The tax is:</del>
<del>Not over \$15,000.....</del>	<del>2.3% of Kansas taxable income</del>
<del>Over \$15,000.....</del>	<del>\$345 plus 3.0% of excess over</del>
	<del>\$15,000</del>

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

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

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

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

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

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

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

(e) ~~Tax rates provided in this section shall be adjusted pursuant to the provisions of~~

K.S.A. 2014 Supp. 79-32,269, and amendments thereto. Notwithstanding the provisions of subsections (a) and (b), for tax year 2017, and all tax years thereafter, married individuals filing joint returns with taxable income of \$12,500 or less, and all other individuals with taxable income of \$5,000 or less, shall have a tax liability of zero.

Sec. 11. K.S.A. 2014 Supp. 79-32,117 is hereby amended to read as follows: 79-32,117. (a) The Kansas adjusted gross income of an individual means such individual's federal adjusted gross income for the taxable year, with the modifications specified in this section.

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

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

(ii) Taxes on or measured by income or fees or payments in lieu of income taxes imposed by this state or any other taxing jurisdiction to the extent deductible in determining federal adjusted gross income and not credited against federal income tax. This paragraph shall not apply to taxes imposed under the provisions of K.S.A. 79-1107 or 79-1108, and amendments thereto, for privilege tax year 1995, and all such years thereafter.

(iii) The federal net operating loss deduction, except that the federal net operating loss deduction shall not be added to an individual's federal adjusted gross income after December 31, 2014.

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

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

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

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

(viii) The amount of any costs incurred for improvements to a swine facility, claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2014 Supp. 79-32,204, and amendments thereto.

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

(x) Amounts received as nonqualified withdrawals, as defined by K.S.A. 2014 Supp. 75-643, and amendments thereto, if, at the time of contribution to a family postsecondary education savings account, such amounts were subtracted from the federal adjusted gross income pursuant to ~~paragraph (xv) of subsection (e) of K.S.A. 79-32,117(c)(xv)~~, and amendments thereto, or if such amounts are not already included in the federal adjusted gross income.

(xi) The amount of any contribution made to the same extent the same is claimed as the basis for the credit allowed pursuant to K.S.A. 2014 Supp. 74-50,154, and amendments thereto.

(xii) For taxable years commencing after December 31, 2004, amounts received as withdrawals not in accordance with the provisions of K.S.A. 2014 Supp. 74-50,204, and amendments thereto, if, at the time of contribution to an individual development account, such amounts were subtracted from the federal adjusted gross income pursuant to ~~paragraph (xiii) of subsection (e) (c)(xiii)~~, or if such amounts are not already included in the federal adjusted gross income.

(xiii) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2014 Supp. 79-32,217 through 79-32,220 or 79-32,222, and amendments thereto.

(xiv) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2014 Supp. 79-32,221, and amendments thereto.

(xv) The amount of any expenditures claimed for deduction in determining federal adjusted gross income, to the extent the same is claimed as the basis for any credit allowed pursuant to K.S.A. 2014 Supp. 79-32,223 through 79-32,226, 79-32,228 through 79-32,231, 79-32,233 through 79-32,236, 79-32,238 through 79-32,241, 79-32,245 through 79-32,248 or 79-32,251 through 79-32,254, and amendments thereto.

(xvi) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to K.S.A. 2014 Supp. 79-32,227, 79-32,232, 79-32,237, 79-32,249, 79-32,250 or 79-32,255, and amendments thereto.

(xvii) The amount of any amortization deduction claimed in determining federal adjusted gross income to the extent the same is claimed for deduction pursuant to



K.S.A. 2014 Supp. 79-32,256, and amendments thereto.

(xviii) For taxable years commencing after December 31, 2006, the amount of any ad valorem or property taxes and assessments paid to a state other than Kansas or local government located in a state other than Kansas by a taxpayer who resides in a state other than Kansas, when the law of such state does not allow a resident of Kansas who earns income in such other state to claim a deduction for ad valorem or property taxes or assessments paid to a political subdivision of the state of Kansas in determining taxable income for income tax purposes in such other state, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xix) For ~~all~~ taxable years beginning after December 31, 2012, and ending prior to January 1, 2015, the amount of any: (1) Loss from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) loss from rental real estate, royalties, partnerships, S corporations, except those with wholly owned subsidiaries subject to the Kansas privilege tax, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) farm loss as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent deducted or subtracted in determining the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011, and as revised thereafter by the internal revenue service.

(xx) For ~~all~~ taxable years beginning after December 31, 2012, and ending prior to January 1, 2015, the amount of any deduction for self-employment taxes under section 164(f) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer, to the extent the deduction is attributable to income reported on schedule C, E or F and on line 12, 17 or 18 of the taxpayer's form 1040 federal income tax return.

(xxi) For ~~all~~ taxable years beginning after December 31, 2012, and ending prior to January 1, 2015, the amount of any deduction for pension, profit sharing, and annuity plans of self-employed individuals under section 62(a)(6) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxii) For ~~all~~ taxable years beginning after December 31, 2012, and ending prior to January 1, 2015, the amount of any deduction for health insurance under section 162(l) of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiii) For ~~all~~ taxable years beginning after December 31, 2012, and ending prior to January 1, 2015, the amount of any deduction for domestic production activities under section 199 of the federal internal revenue code as in effect on January 1, 2012, and amendments thereto, in determining the federal adjusted gross income of an individual taxpayer.

(xxiv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid for medical care of the taxpayer or the taxpayer's spouse or

dependents when such expenses were paid or incurred for an abortion, or for a health benefit plan, as defined in K.S.A. 2014 Supp. 65-6731, and amendments thereto, for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2014 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as an itemized deduction for federal income tax purposes.

(xxv) For taxable years commencing after December 31, 2013, that portion of the amount of any expenditure deduction claimed in determining federal adjusted gross income for expenses paid by a taxpayer for health care when such expenses were paid or incurred for abortion coverage, a health benefit plan, as defined in K.S.A. 2014 Supp. 65-6731, and amendments thereto, when such expenses were paid or incurred for abortion coverage or amounts contributed to health savings accounts for such taxpayer's employees for the purchase of an optional rider for coverage of abortion in accordance with K.S.A. 2014 Supp. 40-2,190, and amendments thereto, to the extent that such taxes and assessments are claimed as a deduction for federal income tax purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

(xiii) For taxable years beginning after December 31, 2004, amounts contributed to and the amount of income earned on contributions deposited to an individual development account under K.S.A. 2014 Supp. 74-50,201 et seq., and amendments thereto.

(xiv) For all taxable years commencing after December 31, 1996, that portion of any income of a bank organized under the laws of this state or any other state, a national banking association organized under the laws of the United States, an association organized under the savings and loan code of this state or any other state, or a federal savings association organized under the laws of the United States, for which an election as an S corporation under subchapter S of the federal internal revenue code is in effect, which accrues to the taxpayer who is a stockholder of such corporation and which is not distributed to the stockholders as dividends of the corporation. For ~~all~~ taxable years beginning after December 31, 2012, and ending prior to January 1, 2015, the amount of modification under this subsection shall exclude the portion of income or loss reported on schedule E and included on line 17 of the taxpayer's form 1040 federal individual income tax return.

(xv) For all taxable years beginning after December 31, 2006, amounts not exceeding \$3,000, or \$6,000 for a married couple filing a joint return, for each designated beneficiary which are contributed to a family postsecondary education savings account established under the Kansas postsecondary education savings program or a qualified tuition program established and maintained by another state or agency or instrumentality thereof pursuant to section 529 of the internal revenue code of 1986, as amended, for the purpose of paying the qualified higher education expenses of a designated beneficiary at an institution of postsecondary education. The terms and phrases used in this paragraph shall have the meaning respectively ascribed thereto by the provisions of K.S.A. 2014 Supp. 75-643, and amendments thereto, and the provisions of such section are hereby incorporated by reference for all purposes thereof.

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

taxpayer's service in the armed forces of the United States, including service in the Kansas army and air national guard.

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

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

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

(xx) For ~~all~~ taxable years beginning after December 31, 2012, and ending prior to January 1, 2015, the amount of any: (1) Net profit from business as determined under the federal internal revenue code and reported from schedule C and on line 12 of the taxpayer's form 1040 federal individual income tax return; (2) net income from rental real estate, royalties, partnerships, S corporations, estates, trusts, residual interest in real estate mortgage investment conduits and net farm rental as determined under the federal internal revenue code and reported from schedule E and on line 17 of the taxpayer's form 1040 federal individual income tax return; and (3) net farm profit as determined under the federal internal revenue code and reported from schedule F and on line 18 of the taxpayer's form 1040 federal income tax return; all to the extent included in the taxpayer's federal adjusted gross income. For purposes of this subsection, references to the federal form 1040 and federal schedule C, schedule E, and schedule F, shall be to such form and schedules as they existed for tax year 2011 and as revised thereafter by the internal revenue service.

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

(xxii) For ~~all~~ taxable years beginning after December 31, 2012, and ending prior to January 1, 2015, the amount of net gain from the sale of: (1) Cattle and horses, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 24 months or more from the date of acquisition; and (2) other livestock, regardless of age, held by the taxpayer for draft, breeding, dairy or sporting purposes, and held by such taxpayer for 12 months or more from the date of acquisition. The subtraction from federal adjusted gross income shall be limited to the amount of the additions recognized under the provisions of ~~paragraph (xix) of~~ subsection (b)(~~xix~~) attributable to the business in which the livestock sold had been used. As used in this paragraph, the term "livestock" shall not include poultry.

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

(xxiv) For all taxable years beginning after December 31, 2013, the net gain from the sale of Christmas trees grown in Kansas and held by the taxpayer for six years or more.

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

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

Sec. 12. K.S.A. 2014 Supp. 79-32,120 is hereby amended to read as follows: 79-32,120. (a) (1) If federal taxable income of an individual is determined by itemizing deductions from such individual's federal adjusted gross income, such individual may elect to deduct the Kansas itemized deduction in lieu of the Kansas standard deduction.

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

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

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

revenue code.

(5) For the tax year commencing on January 1, 2016, the Kansas itemized deduction of an individual means 55% of the total amount of deductions from federal adjusted gross income, other than federal deductions for personal exemptions, as provided in the federal internal revenue code with the modifications specified in this section.

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

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

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

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

Sec. 13. K.S.A. 79-32,265 is hereby amended to read as follows: 79-32,265. Except as otherwise provided, no credit provided under the Kansas income tax act, and amendments thereto, shall be allowed for: (a) Any individual who fails to provide a valid social security number issued to such individual, the individual's spouse and dependents of the individual for purposes of section 205 (c)(2)(A) of the social security act on such individual's Kansas income tax return as the identifying number for such individual for tax purposes; or (b) or any individual who has not been issued a valid social security number for the entire taxable year in which such credit is claimed, except that this provision shall not apply for an individual whose spouse possesses a valid social security number for the entire taxable year and whose filing status for income tax purposes is married filing jointly. The provisions of this section shall not apply to the credit provided by K.S.A. 79-32,111, and amendments thereto.

Sec. 14. K.S.A. 2014 Supp. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. ~~On and after July 1, 2002, and before January 1, 2003, the rate of such tax shall be \$.70 on each 20 cigarettes or fractional part thereof or \$.875 on each 25 cigarettes, as the case requires. On and after January 1, 2003, July 1, 2015, the rate of such tax shall be \$.79 \$1.29 on each 20 cigarettes or fractional part thereof or \$.99 \$1.61 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by~~

the wholesale dealer first receiving the cigarettes as herein provided.

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

Sec. 15. K.S.A. 2014 Supp. 79-3310c is hereby amended to read as follows: 79-3310c. ~~(1) On or before July 30, 2002~~ 31, 2015, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, ~~2002~~ 2015. A tax of ~~\$.46~~ \$.50 on each 20 cigarettes or fractional part thereof or ~~\$.575~~ \$.62 on each 25 cigarettes, as the case requires and ~~\$.46 or \$.575~~ \$.50 or \$.62, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to July 1, ~~2002~~ 2015, is hereby imposed and shall be due and payable ~~in equal installments on or before July 30, 2002, on or before September 30, 2002, and on or before December 30, 2002~~ October 31, 2015. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

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

Sec. 16. K.S.A. 2014 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. The director shall sell water applied stamps only to licensed wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Meter imprints shall be sold only in amounts of 10,000 or multiples thereof. Water applied stamps in amounts of 10,000 or multiples thereof and stamps applied by the heat process and meter imprints shall be supplied to wholesale dealers at a discount of ~~90% on and after July 1, 2002, and before January 1, 2003, and 80%~~ 0.55% on and after July 1, 2015, and thereafter, from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the

bond. Failure on the part of any wholesale dealer to remit as herein specified shall be cause for forfeiture of such dealer's bond. All revenue received from the sale of such stamps or meter imprints shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. The state treasurer shall first credit such amount as the director shall order to the cigarette tax refund fund and shall credit the remaining balance to the state general fund. A refund fund designated the cigarette tax refund fund not to exceed \$10,000 at any time shall be set apart and maintained by the director from taxes collected under this act and held by the state treasurer for prompt payment of all refunds authorized by this act. Such cigarette tax refund fund shall be in such amount as the director shall determine is necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes stamps or tax meter imprints required by this act prior to the sale of cigarettes to any person, by such dealer or such dealer's agent or agents, within the state of Kansas. The director is empowered to authorize wholesale dealers to affix revenue tax meter imprints upon original packages of cigarettes and is charged with the duty of regulating the use of tax meters to secure payment of the proper taxes. No wholesale dealer shall affix revenue tax meter imprints to original packages of cigarettes without first having obtained permission from the director to employ this method of affixation. If the director approves the wholesale dealer's application for permission to affix revenue tax meter imprints to original packages of cigarettes, the director shall require such dealer to file a suitable bond payable to the state of Kansas executed by a corporate surety authorized to do business in Kansas. The director may, to assure the proper collection of taxes imposed by the act, revoke or suspend the privilege of imprinting tax meter imprints upon original packages of cigarettes. All meters shall be under the direct control of the director, and all transfer assignments or anything pertaining thereto must first be authorized by the director. All inks used in the stamping of cigarettes must be of a special type devised for use in connection with the machine employed and approved by the director. All repairs to the meter are strictly prohibited except by a duly authorized representative of the director. Requests for service shall be directed to the director. Meter machine ink imprints on all packages shall be clear and legible. If a wholesale dealer continuously issues illegible cigarette tax meter imprints, it shall be considered sufficient cause for revocation of such dealer's permit to use a cigarette tax meter.

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

Sec. 17. K.S.A. 2014 Supp. 79-3312 is hereby amended to read as follows: 79-3312. The director shall redeem any unused stamps or meter imprints that any wholesale dealer presents for redemption within six months after the purchase thereof, at the face value less ~~90% on and after July 1, 2002, and before January 1, 2003, and 80% thereafter~~ 0.55% thereof if such stamps or meter imprints have been purchased from the director. The director shall prepare a voucher showing the net amount of such refund due, and the director of accounts and reports shall draw a warrant on the state treasurer for the same. Wholesale dealers shall be entitled to a refund of the tax paid on cigarettes which have become unfit for sale upon proof thereof less ~~90% on and after July 1, 2002, and before January 1, 2003, and 80% thereafter~~ 0.55% of such tax.



Sec. 18. K.S.A. 2014 Supp. 79-3602 is hereby amended to read as follows: 79-3602. Except as otherwise provided, as used in the Kansas retailers' sales tax act:

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

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

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

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

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

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

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

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

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

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

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

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

sporting events and to disburse such receipts, as well as grants and gifts, in the interest of collegiate and intercollegiate athletic programs for the support and sole benefit of an educational institution; and (4) nonprofit trusts, foundations and other entities organized and operated for the primary purpose of encouraging, fostering and conducting scholarly investigations and industrial and other types of research for the support and sole benefit of an educational institution.

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

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

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

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

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

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

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

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

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

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

(q) "Isolated or occasional sale" means the nonrecurring sale of tangible personal

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

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

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

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

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

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

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

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

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

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

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

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

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

agreement with the member states that establishes a tax performance standard for the seller. As used in this subsection a seller includes an affiliated group of sellers using the same proprietary system.

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

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

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

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

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

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

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

business; or (4) the storage or processing of grain by a public grain warehouse or other grain storage facility, and which is not reusable for such purpose. The following is a listing of tangible personal property, included by way of illustration but not of limitation, which qualifies as property which is consumed:

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

(B) electricity, gas and water; and

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

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

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

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

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

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

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

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

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

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

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

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

(D) delivery charges; and

- (E) installation charges.
- (2) "Sales or selling price" includes consideration received by the seller from third parties if:
- (A) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;
- (B) the seller has an obligation to pass the price reduction or discount through to the purchaser;
- (C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and
- (D) one of the following criteria is met:
- (i) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;
- (ii) the purchaser identifies to the seller that the purchaser is a member of a group or organization entitled to a price reduction or discount. A preferred customer card that is available to any patron does not constitute membership in such a group; or
- (iii) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.
- (3) "Sales or selling price" shall not include:
- (A) Discounts, including cash, term or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;
- (B) interest, financing and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser;
- (C) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser;
- (D) the amount equal to the allowance given for the trade-in of property, if separately stated on the invoice, billing or similar document given to the purchaser; and
- (E) commencing on July 1, 2006, and ending on June 30, 2009, cash rebates granted by a manufacturer to a purchaser or lessee of a new motor vehicle if paid directly to the retailer as a result of the original sale.
- (mm) "Seller" means a person making sales, leases or rentals of personal property or services.
- (nn) "Service" means those services described in and taxed under the provisions of K.S.A. 79-3603, and amendments thereto.
- (oo) "Sourcing rules" means the rules set forth in K.S.A. 2014 Supp. 79-3670 through 79-3673, K.S.A. 12-191 and 12-191a, and amendments thereto, which shall apply to identify and determine the state and local taxing jurisdiction sales or use taxes to pay, or collect and remit on a particular retail sale.
- (pp) "Tangible personal property" means personal property that can be seen, weighed, measured, felt or touched, or that is in any other manner perceptible to the senses. Tangible personal property includes electricity, water, gas, steam and prewritten computer software.
- (qq) "Taxpayer" means any person obligated to account to the director for taxes

collected under the terms of this act.

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

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

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

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

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

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

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

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

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

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

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

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

(3) tangible personal property;

- (4) advertising, including, but not limited to, directory advertising;
- (5) billing and collection services provided to third parties;
- (6) internet access service;
- (7) radio and television audio and video programming services, regardless of the medium, including the furnishing of transmission, conveyance and routing of such services by the programming service provider. Radio and television audio and video programming services shall include, but not be limited to, cable service as defined in 47 U.S.C. § 522(6) and audio and video programming services delivered by commercial mobile radio service providers, as defined in 47 C.F.R. § 20.3;
- (8) ancillary services; or
- (9) digital products delivered electronically, including, but not limited to, software, music, video, reading materials or ring tones.

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

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

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

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

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

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

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

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

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

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

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



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

(2) "Prepared food" does not include:

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

(B) eggs, fish, meat, poultry and foods containing these raw animal foods requiring cooking by the consumer as recommended by the United States food and drug administration, in chapter 3, part 401.11 of its food code, so as to prevent foodborne illnesses;

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

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

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

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

Sec. 19. K.S.A. 2014 Supp. 79-3603, as amended by section 20, of 2015 Senate Substitute for House Bill No. 2155, 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 ~~6.15%~~ 6.45%. 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 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. 2014 Supp. 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. 2014 Supp. 79-3673, and amendments thereto; (3) any value-added nonvoice data service; (4) any telecommunication service to a provider of telecommunication services which 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 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 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 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 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 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 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 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 only those enclosures within which individuals customarily live;

(5) "utility structure" shall mean 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 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 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 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. 2014 Supp. 79-3673, and amendments thereto;

(v) all sales of bingo cards, bingo faces and instant bingo tickets by licensees under section 1 of 2015 Senate Substitute for House Bill No. 2155, 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 section 1 of 2015 Senate Substitute for House Bill No. 2155, et seq., and amendments thereto, shall be exempt from taxes imposed pursuant to this section; and

(x) commencing January 1, 2016, and thereafter, the gross receipts from the sale of food and food ingredients shall be taxed at the rate of 5.7%.

Sec. 20. K.S.A. 2014 Supp. 79-3620 is hereby amended to read as follows: 79-3620. (a) All revenue collected or received by the director of taxation from the taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsections (c), (d) and (e), to the credit of the state general fund.

(b) A refund fund, designated as "sales tax refund fund" not to exceed \$100,000 shall be set apart and maintained by the director from sales tax collections and estimated tax collections and held by the state treasurer for prompt payment of all sales tax refunds. Such fund shall be in such amount, within the limit set by this section, as the director shall determine is necessary to meet current refunding requirements under this act. In the event such fund as established by this section is, at any time, insufficient to provide for the payment of refunds due claimants thereof, the director shall certify the amount of additional funds required to the director of accounts and reports who shall promptly transfer the required amount from the state general fund to the sales tax refund fund, and notify the state treasurer, who shall make proper entry in the records.

~~(c) (1) The state treasurer shall credit <sup>5/100</sup> of the revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~

~~(2) The state treasurer shall credit <sup>5/100</sup> of the revenue collected or received from the~~

tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(3) On July 1, 2006, the state treasurer shall credit <sup>19/726</sup> of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~

~~(4) On July 1, 2007, the state treasurer shall credit <sup>13/146</sup> of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~

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

~~(6)(2)~~ On July 1, 2011, the state treasurer shall credit 11.26% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(7)(3)~~ On July 1, 2012, the state treasurer shall credit 11.233% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(8)(4)~~ On July 1, 2013, ~~and thereafter~~, the state treasurer shall credit 17.073% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.15%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) (A) On July 1, 2015, the state treasurer shall credit 16.445% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rate of 6.45%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(B) On January 1, 2016, the state treasurer shall credit 16.445% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rates of 6.45% and 5.7%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(6) On July 1, 2016, and thereafter, the state treasurer shall credit 16.526% of the revenue collected and received from the tax imposed by K.S.A. 79-3603, and amendments thereto, at the rates of 6.45% and 5.7%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3603, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a STAR bond project district occupied by a STAR bond project or taxpayers doing business with such entity financed by a STAR bond project as defined in K.S.A. 2014 Supp. 12-17,162, and amendments thereto, that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state or the project was

designated as a STAR bond project as defined in K.S.A. 2014 Supp. 12-17,162, and amendments thereto, to the city bond finance fund, which fund is hereby created. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under ~~subsection (d) of K.S.A. 79-3710(d)~~, and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such STAR bond project.

(e) All revenue certified by the director of taxation as having been collected or received from the tax imposed by ~~subsection (e) of K.S.A. 79-3603(c)~~, and amendments thereto, on the sale or furnishing of gas, water, electricity and heat for use or consumption within the intermodal facility district described in this subsection, shall be credited by the state treasurer to the state highway fund. Such revenue may be transferred by the secretary of transportation to the rail service improvement fund pursuant to law. The provisions of this subsection shall take effect upon certification by the secretary of transportation that a notice to proceed has been received for the construction of the improvements within the intermodal facility district, but not later than December 31, 2010, and shall expire when the secretary of revenue determines that the total of all amounts credited hereunder and pursuant to ~~subsection (e) of K.S.A. 79-3710(e)~~, and amendments thereto, is equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all revenues shall be collected and distributed in accordance with applicable law. For all tax reporting periods during which the provisions of this subsection are in effect, none of the exemptions contained in K.S.A. 79-3601 et seq., and amendments thereto, shall apply to the sale or furnishing of any gas, water, electricity and heat for use or consumption within the intermodal facility district. As used in this subsection, "intermodal facility district" shall consist of an intermodal transportation area as defined by ~~subsection (oo) of K.S.A. 12-1770a(oo)~~, and amendments thereto, located in Johnson county within the polygonal-shaped area having Waverly Road as the eastern boundary, 191<sup>st</sup> Street as the southern boundary, Four Corners Road as the western boundary, and Highway 56 as the northern boundary, and the polygonal-shaped area having Poplar Road as the eastern boundary, 183<sup>rd</sup> Street as the southern boundary, Waverly Road as the western boundary, and the BNSF mainline track as the northern boundary, that includes capital investment in an amount exceeding \$150 million for the construction of an intermodal facility to handle the transfer, storage and distribution of freight through railway and trucking operations.

Sec. 21. K.S.A. 2014 Supp. 79-3695 is hereby amended to read as follows: 79-3695. If any contractor has entered into a written binding contract prior to May 1, ~~2010~~ 2015, for the original construction, reconstruction, restoration, remodeling, renovation, repair or replacement of a building, facility or residential structure, or for the construction, reconstruction, restoration, replacement or repair of a bridge or highway, the state sales tax applicable to such contracts shall be remitted at the rate in effect prior to the state sales tax increase scheduled to take effect on July 1, ~~2010~~ 2015, if the contractor gives notice and proof of such contract to the director of taxation on or before July 10, ~~2010~~ 2015, which notice and proof shall be in such form and of such sufficiency as the director shall prescribe.

Sec. 22. K.S.A. 2014 Supp. 79-3703 is hereby amended to read as follows: 79-3703. There is hereby levied and there shall be collected from every person in this state a tax or excise for the privilege of using, storing, or consuming within this state any article of tangible personal property. Such tax shall be levied and collected in an amount

equal to the consideration paid by the taxpayer multiplied by the rate of ~~6.15%~~ 6.45%, ~~except that commencing January 1, 2016, such rate shall be 5.7% on food and food ingredients as defined by K.S.A. 79-3602, and amendments thereto.~~ 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 of 2% until the earlier of: (1) The date the bonds issued to finance or refinance the redevelopment project undertaken in the district have been paid in full; or (2) the final scheduled maturity of the first series of bonds issued to finance the redevelopment project. All property purchased or leased within or without this state and subsequently used, stored or consumed in this state shall be subject to the compensating tax if the same property or transaction would have been subject to the Kansas retailers' sales tax had the transaction been wholly within this state.

Sec. 23. K.S.A. 2014 Supp. 79-3710 is hereby amended to read as follows: 79-3710. (a) All revenue collected or received by the director under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c), (d) and (e), to the credit of the state general fund.

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

(c) (1) ~~The state treasurer shall credit  $\frac{5}{108}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 4.9%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~

(2) ~~The state treasurer shall credit  $\frac{5}{106}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided in subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~

(3) ~~On July 1, 2006, the state treasurer shall credit  $\frac{19}{265}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~

(4) ~~On July 1, 2007, the state treasurer shall credit  $\frac{13}{106}$  of the revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 5.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.~~

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

~~(6)~~(2) On July 1, 2011, the state treasurer shall credit 11.26% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments



thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(7)(3)~~ On July 1, 2012, the state treasurer shall credit 11.233% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.3%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

~~(8)(4)~~ On July 1, 2013, ~~and thereafter~~, the state treasurer shall credit 17.073% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.15%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(5) (A) On July 1, 2015, the state treasurer shall credit 16.445% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rate of 6.45%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(B) On January 1, 2016, the state treasurer shall credit 16.445% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rates of 6.45% and 5.7%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(6) On July 1, 2016, and thereafter, the state treasurer shall credit 16.526% of the revenue collected and received from the tax imposed by K.S.A. 79-3703, and amendments thereto, at the rates of 6.45% and 5.7%, and deposited as provided by subsection (a), exclusive of amounts credited pursuant to subsection (d), in the state highway fund.

(d) The state treasurer shall credit all revenue collected or received from the tax imposed by K.S.A. 79-3703, and amendments thereto, as certified by the director, from taxpayers doing business within that portion of a redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce to be of statewide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 12-1770a, and amendments thereto, to the city bond finance fund created by ~~subsection (d) of~~ K.S.A. 79-3620(d), and amendments thereto. The provisions of this subsection shall expire when the total of all amounts credited hereunder and under ~~subsection (d) of~~ K.S.A. 79-3620(d), and amendments thereto, is sufficient to retire the special obligation bonds issued for the purpose of financing all or a portion of the costs of such redevelopment project.

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

(e) All revenue certified by the director of taxation as having been collected or received from the tax imposed by ~~subsection (e) of~~ K.S.A. 79-3603(c), and amendments thereto, on the sale or furnishing of gas, water, electricity and heat for use or consumption within the intermodal facility district described in this subsection, shall be credited by the state treasurer to the state highway fund. Such revenue may be transferred by the secretary of transportation to the rail service improvement fund pursuant to law. The provisions of this subsection shall take effect upon certification by the secretary of transportation that a notice to proceed has been received for the construction of the improvements within the intermodal facility district, but not later than December 31, 2010, and shall expire when the secretary of revenue determines that the total of all amounts credited hereunder and pursuant to ~~subsection (e) of~~ K.S.A. 79-

3620(e), and amendments thereto, is equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all revenues shall be collected and distributed in accordance with applicable law. For all tax reporting periods during which the provisions of this subsection are in effect, none of the exemptions contained in K.S.A. 79-3601 et seq., and amendments thereto, shall apply to the sale or furnishing of any gas, water, electricity and heat for use or consumption within the intermodal facility district. As used in this subsection, "intermodal facility district" shall consist of an intermodal transportation area as defined by ~~subsection (ee) of~~ K.S.A. 12-1770a(oo), and amendments thereto, located in Johnson county within the polygonal-shaped area having Waverly Road as the eastern boundary, 191<sup>st</sup> Street as the southern boundary, Four Corners Road as the western boundary, and Highway 56 as the northern boundary, and the polygonal-shaped area having Poplar Road as the eastern boundary, 183<sup>rd</sup> Street as the southern boundary, Waverly Road as the western boundary, and the BNSF mainline track as the northern boundary, that includes capital investment in an amount exceeding \$150 million for the construction of an intermodal facility to handle the transfer, storage and distribution of freight through railway and trucking operations.

Sec. 24. K.S.A. 79-5108 is hereby amended to read as follows: 79-5108. (a) The secretary of revenue shall provide county officials of the several counties with copies of manuals for the taxation of motor vehicles together with such other information and forms as may be necessary for the administration of the provisions of this act. The county officials of the several counties shall provide the secretary of revenue with such information as may be deemed necessary by the secretary for the proper administration of the provisions of this act.

(b) The amount of the tax levied upon each motor vehicle under the provisions of this act together with the taxable value computed under the provisions of K.S.A. 79-5105, and amendments thereto, for the purpose of computing such tax and such other information as the secretary of revenue shall determine to be necessary for the administration of this act shall be included upon the owner's motor vehicle registration application for such motor vehicle. If the taxable value of such vehicle is computed by the department of revenue, such department shall compute the tax and list the same upon such registration application. If the motor vehicle is classified by the county appraiser under the provisions of K.S.A. 79-5102 or 79-5103, and amendments thereto, the county appraiser shall determine the taxable value of such motor vehicle and compute the tax and list the same upon such registration application in the space provided for such purpose. The application shall also provide for the addition or inclusion of information by the taxpayer which is necessary for the determination of the tax situs of the motor vehicle.

(c) A copy of the motor vehicle registration application for an owner of a vehicle subject to registration under the provisions of K.S.A. 8-126 et seq., and amendments thereto, and subject to the tax imposed upon a motor vehicle pursuant to K.S.A. 79-5101 et seq., and amendments thereto, including all information required by such provisions to enable the owner to register the vehicle by completing the registration application and to pay the tax by return mail, shall be mailed by the department of revenue or, at the election of a county, by the county to the address of the owner as shown by the records of the department or the county no later than 45 days before the owner's registration and motor vehicle tax is due.

(d) The county treasurer shall at least once each week file with the county clerk that

portion of all motor vehicle registration applications received in the treasurer's office showing the tax situs and other information relating to the taxation thereof under the provisions of this act. The county clerk shall at least 30 working days prior to the date upon which the county treasurer makes the current tax distribution and by December 15 for any tax distribution to be made in the month of December submit to the county treasurer a motor vehicle tax distribution abstract showing the total taxes collected under the provisions of this act to be distributed to the state and each taxing subdivision in the county ~~(including the county as a taxing subdivision)~~.";

And by renumbering sections accordingly;

Also on page 51, in line 3, after "K.S.A." by inserting "79-5108 and K.S.A."; in line 4, by striking "and" and inserting ", 79-32,110, 79-32,117, 79-32,120, 79-32,265,"; also in line 4, following "79-32,267" by inserting ", 79-32,269, 79-3310, 79-3310c, 79-3311, 79-3312, 79-3602, 79-3603, as amended by section 20 of 2015 Senate Substitute for House Bill No. 2155, 79-3620, 79-3695, 79-3703 and 79-3710";

On page 1, in the title, in line 3, before "credits" by inserting "rates, itemized deductions, subtraction modifications,"; in line 5, following the last semicolon, by inserting "sales and compensating use tax, rates, distribution thereof, food; taxation of cigarettes; motor vehicle taxation," in line 6, after "K.S.A." by inserting "79-5108 and K.S.A."; in line 8, by striking the first "and" and inserting ", 79-32,110, 79-32,117, 79-32,120, 79-32,265,"; also in line 8, following "79-32,267" by inserting ", 79-3310, 79-3310c, 79-3311, 79-3312, 79-3602, 79-3603, as amended by section 20 of 2015 Senate Substitute for House Bill No. 2155, 79-3620, 79-3695, 79-3703 and 79-3710"; in line 9, before the period, by inserting "; also repealing K.S.A. 2014 Supp. 79-32,269";

And your committee on conference recommends the adoption of this report.

MARVIN KLEEB  
GENE SUELLENTROP

*Conferees on part of House*

LES DONOVAN  
CARYN TYSON

*Conferees on part of Senate*

On motion of Rep. Kleeb to adopt the conference committee report on **H Sub for SB 270**, the motion did not prevail.

On roll call, the vote was: Yeas 27; Nays 82; Present but not voting: 0; Absent or not voting: 16.

Yeas: Alford, Barker, Billinger, Boldra, W. Carpenter, Concannon, Davis, Estes, Ewy, Goico, Gonzalez, Hawkins, Hoffman, Hutton, Johnson, Kelly, Kleeb, Mast, Merrick, Osterman, Proehl, Ryckman Sr., Schwartz, Seiwert, Smith, Thimesch, Waymaster.

Nays: Alcalá, Anthimides, Ballard, Barton, Becker, Bradford, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, Carlin, Carmichael, B. Carpenter, Clark, Clayton, Corbet, Curtis, Dierks, Doll, Dove, Edmonds, Esau, Finch, Finney, Francis, Frownfelter, Gallagher, Grosserode, Hemsley, Henderson, Henry, Hibbard, Highberger, Hildabrand, Hill, Hineman, Houser, Huebert, Hutchins, Jennings, D. Jones, Kelley, Kiegerl, Kuether, Lane, Lewis, Lunn, Lusk, Lusker, Macheers, Mason, McPherson, Moxley, Ousley, Pauls, Peck, Phillips, Powell, Read, Rooker, Rubin, Ruiz, Ryckman, Sawyer, Scapa, Schroeder, Schwab, Suellentrop, Sutton, Swanson, Thompson, Tietze,

Todd, Trimmer, Vickrey, Victors, Ward, Whitmer, Williams, Wilson, Wolfe Moore.

Present but not voting: None.

Absent or not voting: Bollier, Bridges, Claeys, DeGraaf, Garber, Hedke, Highland, Houston, K. Jones, Kahrs, O'Brien, Patton, Rhoades, Sloan, Whipple, Winn.

#### EXPLANATIONS OF VOTE

MR. SPEAKER: I vote yes on **H Sub for SB 270**. Today I find myself in an uncomfortable position of voting yes on raising taxes. I do not do this with the thought that decisions made in the past were all wrong and that we are going to the wrong fiscal direction, but with the idea that not all variables can be predicted. I believe we find ourselves in this situation because of many factors on both sides of the ledger. I vote yes on this plan because of all the plans I have seen so far, I believe it gives us the most balanced approach for taxpayers, businesses, and consumers. – KYLE HOFFMAN, JACK THIMESCH, BUD ESTES, JOE SEIWERT, SHARON SCHWARTZ, SUE BOLDRÁ

MR. SPEAKER: We vote yes on **H Sub for SB 270** in order to restore fiscal stability for the state of Kansas. The balanced approach of this committee report addresses all revenue streams in order to resolve the financial calamity that our state currently faces. As representatives of the Kansas House, we need to claim responsibility and charter a path towards fiscal solvency, which would allow for a stable fiscal and business environment. In extreme situations as in these, we need to be cognizant, responsible, and, most importantly, to govern for the betterment of Kansas and our citizens. – STEPHEN ALFORD, TROY L. WAYMASTER, JOHN L. EWY, CHUCK SMITH, RICK BILLINGER

#### INTRODUCTION OF ORIGINAL MOTIONS

Having voted on the prevailing side, Rep. Ryckman moved that the House reconsider its adverse action in not adopting the conference committee report on **H Sub for SB 270**.

The motion prevailed.

The question reverted back to the motion of Rep. Kleeb to adopt the conference committee report on **H Sub for SB 270**.

Also, Rep. Barker offered a substitute motion to not adopt the conference committee report on **H Sub for SB 270** and that a new conference committee be appointed. The motion prevailed.

Speaker pro tem Mast thereupon appointed Reps. Kleeb, Suellentrop and Sawyer as fourth conferees on the part of the House.

#### INTRODUCTION OF ORIGINAL MOTIONS

In accordance with House Rule 2311, Rep. Vickrey moved that House Rule 101 be suspended to allow the House to meet between midnight and 8:00 a.m.

Roll call was demanded.

On roll call, the vote was: Yeas 85; Nays 22; Present but not voting: 0; Absent or not voting: 18.

Yeas: Alcalá, Alford, Anthimides, Ballard, Barker, Becker, Billinger, Boldra, Bradford, Bruchman, Brunk, Burroughs, Couture-Lovelady, Campbell, B. Carpenter, W. Carpenter, Clark, Clayton, Concannon, Corbet, Curtis, Davis, Dierks, Dove, Esau,

Estes, Ewy, Finch, Francis, Gallagher, Goico, Gonzalez, Grosserode, Hawkins, Hemsley, Henry, Hibbard, Hildabrand, Hill, Hineman, Hoffman, Houser, Hutchins, Hutton, Jennings, Johnson, Kelley, Kelly, Kleeb, Lewis, Lunn, Lusk, Lusker, Macheers, Mason, Mast, McPherson, Merrick, Osterman, Ousley, Phillips, Powell, Proehl, Rooker, Rubin, Ruiz, Jr. Ryckman, Sawyer, Scapa, Schroeder, Schwab, Schwartz, Smith, Suellentrop, Sutton, Swanson, Thimesch, Todd, Vickrey, Victors, Waymaster, Whitmer, Williams, Wilson, Wolfe Moore.

Nays: Carlin, Carmichael, Doll, Finney, Frownfelter, Henderson, Highberger, D. Jones, Kiegerl, Kuether, Lane, Moxley, Pauls, Peck, Read, Sr. Ryckman, Seiwert, Thompson, Tietze, Trimmer, Ward, Winn.

Present but not voting: None.

Absent or not voting: Barton, Bollier, Bridges, Claeys, DeGraaf, Edmonds, Garber, Hedke, Highland, Houston, Huebert, K. Jones, Kahrs, O'Brien, Patton, Rhoades, Sloan, Whipple.

The motion prevailed.

On motion of Rep. Vickrey, the house recessed until 9:30 p.m.

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#### NIGHT SESSION

The House met pursuant to recess with Speaker pro tem Mast in the chair.

#### CHANGE OF REFERENCE

Speaker pro tem Mast announced the withdrawal of **SB 11** from the Calendar under the heading General Orders and referral to Committee on Appropriations.

#### MESSAGES FROM THE SENATE

The Senate accedes to the request of the House for a conference on **H Sub for SB 270** and has appointed Senators Donovan, Tyson and Holland as fourth conferees on the part of the Senate.

The Senate adopts the Conference Committee report to agree to disagree on **S Sub for HB 2109**, and has appointed Senators Donovan, Tyson and Holland as second conferees on the part of the Senate.

#### CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **S Sub for HB 2109** submits the following report:

Your committee on conference agrees to disagree and recommends that a new conference committee be appointed;

And your committee on conference recommends the adoption of this report.

LES DONOVAN

CARYN TYSON

*Conferees on part of Senate*

MARVIN KLEEB  
 GENE SUELLENTROP  
*Conferees on part of House*

On motion of Rep. Kleeb the conference committee report on **S Sub for HB 2109** to agree to disagree, was adopted.

Speaker pro tem Mast thereupon appointed Reps. Kleeb, Suellentrop and Sawyer as second conferees on the part of the House.

The House stood at ease until the sound of the gavel.

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Speaker pro tem Mast called the House to order.

On motion of Rep. Vickrey, the House recessed until 12:30 a.m.

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#### LATE NIGHT SESSION

The House met pursuant to recess with Speaker pro tem Mast in the chair.

#### REPORTS OF STANDING COMMITTEES

Committee on **Appropriations** recommends **SB 11** be amended by adoption of the amendments recommended by the House Committee on Judiciary as reported in the Journal of the House on March 23, 2015, and the bill as printed with house committee amendments, be amended by substituting a new bill to be designated as "House Substitute for SENATE BILL NO. 11," as follows:

"House Substitute for SENATE BILL NO. 11

By Committee on Appropriations

"AN ACT concerning state officers and employees; relating to duties of the secretary of administration; concerning essential state employees; amending K.S.A. 2014 Supp. 75-3747 and repealing the existing section."; and the substitute bill be passed.  
 (**SB 11** was thereupon introduced and read by title.)

#### REPORT ON ENROLLED BILLS

**HB 2331, S Sub for HB 2353** reported correctly enrolled, properly signed and presented to the Governor on June 5, 2015.

On motion of Rep. Vickrey, the House adjourned until 9:00 a.m., Saturday, June 6, 2015.

CHARLENE SWANSON, *Journal Clerk.*

SUSAN W. KANNARR, *Chief Clerk.*

