

## HOUSE BILL No. 2597

AN ACT concerning state moneys; providing for the reconciliation of amendments to certain sections of the Kansas Statutes Annotated; amending K.S.A. 75-4221, as amended by section 1 of 2001 House Bill No. 2169, 79-32,105, as amended by section 4 of 2001 Senate Bill No. 44 and 79-41a03, as amended by section 1 of 2001 Senate Bill No. 42 and K.S.A. 2000 Supp. 9-1111b, as amended by section 41 of 2001 Senate Bill No. 15, 9-1804, as amended by section 14 of 2001 House Bill No. 2482, 65-3424b, as amended by section 245 of 2001 Senate Bill No. 15, 65-3424d, as amended by section 246 of 2001 Senate Bill No. 15, 65-3424k, as amended by section 6 of 2001 House Bill No. 2131, 66-1,139a, as amended by section 273 of 2001 Senate Bill No. 15, 79-3425, as amended by section 454 of 2001 Senate Bill No. 15, 79-3620, 79-3620, as amended by section 10 of this act, 79-3710, 79-3710, as amended by section 12 of this act and repealing the existing sections; also repealing K.S.A. 17-7515, as amended by section 66 of 2001 Senate Bill No. 15, 65-770, as amended by section 225 of 2001 Senate Bill No. 15, 72-6505, as amended by section 292 of 2001 Senate Bill No. 15, 79-32,105, as amended by section 448 of 2001 Senate Bill No. 15 and 79-41a03, as amended by section 463 of 2001 Senate Bill No. 15 and K.S.A. 2000 Supp. 2-1011, as amended by section 9 of 2001 Senate Bill No. 15, 8-1,112, as amended by section 30 of 2001 Senate Bill No. 15, 9-1111b, as amended by section 8 of 2001 House Bill No. 2482, 9-1804, as amended by section 45 of 2001 Senate Bill No. 15, 65-708a, as amended by section 223 of 2001 Senate Bill No. 15, 65-750, as amended by section 224 of 2001 Senate Bill No. 15, 65-3424b, as amended by section 3 of 2001 House Bill No. 2131, 65-3424d, as amended by section 4 of 2001 House Bill No. 2131, 65-3424k, as amended by section 247 of 2001 Senate Bill No. 15, 66-1,139, as amended by section 272 of 2001 Senate Bill No. 15, 66-1,139a, as amended by section 15 of 2001 House Bill No. 2291, 66-1a01, as amended by section 275 of 2001 Senate Bill No. 15, 79-3425, as amended by section 1 of 2001 House Bill No. 2011, 79-3620, as amended by section 16 of 2001 Substitute for House Bill No. 2005, 79-3620, as amended by section 460 of 2001 Senate Bill No. 15, 79-3710, as amended by section 18 of 2001 Substitute for House Bill No. 2005, and 79-3710, as amended by section 461 of 2001 Senate Bill No. 15.

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

Section 1. On July 1, 2001, K.S.A. 2000 Supp. 9-1111b, as amended by section 41 of 2001 Senate Bill No. 15, is hereby amended to read as follows: 9-1111b. A bank making application to the state banking board *or the commissioner* for approval of a branch bank shall pay to the ~~state bank~~ commissioner a fee, in an amount established by rules and regulations adopted by the commissioner, to defray the expenses of the board, commissioner or other designees in the examination and investigation of the application. The commissioner shall remit all amounts received under this section 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 to the credit of a separate special account in the state treasury for each application. The moneys in each such account shall be used only to pay the expenses of the board, commissioner or other designees in the examination and investigation of the application to which it relates and any unused balance shall be transferred to the bank commissioner fee fund.

Sec. 2. On July 1, 2001, K.S.A. 2000 Supp. 9-1804, as amended by section 14 of 2001 House Bill No. 2482, is hereby amended to read as follows: 9-1804. (a) No bank or trust company incorporated under the laws of this state shall change its place of business, from one city or town to another or from one location to another within the same city or town, without prior approval. Any such bank or trust company desiring to change its place of business shall file written application with the office of the state bank commissioner in such form and containing such information as the board and the commissioner shall require. Notice of the proposed relocation shall be published in a newspaper of general circulation in the county where the main bank or trust company is currently located and in the county to which the bank or trust company proposes to relocate. The notice shall be in the form prescribed by the commissioner and at a minimum shall contain the name and address of the applicant bank or trust company, the address of the proposed new location and a solicitation for written comments. The notice shall be published on the same day for two consecutive weeks and provide for a comment period of not less than 10 calendar days after the date of the second publication. The applicant shall provide proof of publication to the commissioner.

(b) If the applicant is an eligible bank or an eligible trust company, the commissioner shall examine and investigate the application. If the commissioner determines:

(1) There is a reasonable probability of usefulness and success of the bank or trust company in the proposed location; and

(2) the applicant bank's or trust company's financial history and condition is sound, the application shall be approved, otherwise, it shall be denied.

(c) Within 15 days after any final action of the commissioner approving or disapproving an application, the applicant, or any adversely affected or aggrieved person who provided written comments during the specified comment period, may request a hearing with the state banking board. Upon receipt of a timely request, the board shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act. Any decision of the state banking board is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

(d) If a bank does not meet the definition of an eligible bank or a trust company does not meet the definition of an eligible trust company, the state banking board shall examine and investigate the application. If the board determines:

(1) There is a reasonable probability of usefulness and success of the bank or trust company in the proposed location; and

(2) the applicant bank's or trust company's financial history and condition is sound, the application shall be approved, otherwise, it shall be denied.

(e) Any final action of the board approving or disapproving an application shall be subject to review in accordance with the act for judicial review and civil enforcement of agency actions upon the petition of the applicant, or any adversely affected or aggrieved person who provided written comments during the specified comment period.

(f) The expenses of such examination and investigation shall be paid by the bank or trust company which shall deposit with the commissioner a fee in an amount established by rules and regulations adopted by the commissioner. The commissioner shall remit all amounts received under this section to the state treasurer ~~who shall deposit the same~~ *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 to the credit of a separate special account in the state treasury for each application. The moneys in each such account shall be used only to pay the expenses of the examination and investigation to which it relates, and any unused portion of such deposit shall be transferred to the bank commissioner fee fund.*

(g) For purposes of this section:

(1) "Eligible bank" means a state bank that meets the following criteria:

(A) Received a composite rating of 1 or 2 under the uniform financial institutions rating system as a result of its most recent federal or state examination;

(B) meets the following three criteria for a well capitalized bank:

(i) Has a total risk based capital ratio of 10% or greater;

(ii) has a tier one risk based capital ratio of 6% or greater; and

(iii) has a leverage ratio of 5% or greater; and

(C) is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding or other administrative agreement with its primary federal regulator or the office of the state bank commissioner; and

(2) "eligible trust company" means a state chartered trust company that meets the following criteria:

(A) Received a composite rating of 1 or 2 under the uniform interagency trust rating system as a result of its most recent state examination; and

(B) is not subject to a cease and desist order, consent order, written agreement, memorandum of understanding or other administrative agreement with the office of the state bank commissioner.

Sec. 3. On July 1, 2001, K.S.A. 2000 Supp. 65-3424b, as amended by section 245 of Senate Bill No. 15, is hereby amended to read as follows: 65-3424b. (a) The secretary shall establish a system of permits for mobile waste tire processors and waste tire processing facilities and permits for waste tire transporters and collection centers. Such permits shall be issued for a period of one year and shall require an application fee established by the secretary in an amount not exceeding \$250 per year.

(b) The secretary shall adopt rules and regulations establishing standards for mobile waste tire processors, waste tire processing facilities and associated waste tire sites, waste tire collection centers and waste tire transporters. Such standards shall include a requirement that the permittee file with the secretary a bond or other financial assurance in an amount determined by the secretary to be sufficient to pay any costs which may be incurred by the state to process any waste tires or dispose of any waste tires or processed waste tires if the permittee ceases business or fails to comply with this act.

(c) Any person who contracts or arranges with another person to collect or transport waste tires for storage, processing or disposal shall so contract or arrange only with a person holding a permit from the secretary. Any person contracting or arranging with a person, permitted by the secretary, to collect or transport waste tires for storage, processing or disposal, transfers ownership of those waste tires to the permitted person and the person contracting or arranging with the person holding such permit to collect or transport such tires shall be released from liability therefor. Any person contracting or arranging with any person, permitted by the secretary, for the collection ~~or~~, *transportation*, storage, *processing or disposal* of such tires shall maintain a record of such transaction for a period of not less than five years following the date of the transfer of such tires.

(d) No person shall:

(1) Own or operate a waste tire processing facility or waste tire collection center or act as a mobile waste tire processor or waste tire transporter unless such person holds a valid permit issued therefor pursuant to subsection (a); or

(2) own or operate a waste tire processing facility or waste tire collection center or act as a mobile waste tire processor or waste tire transporter except in compliance with the standards established by the secretary pursuant to subsection (b).

(e) The provisions of subsection (d)(1) shall not apply to:

(1) A tire retreading business where fewer than 1,000 waste tires are kept on the business premises;

(2) a business that, in the ordinary course of business, removes tires from motor vehicles if fewer than 1,500 of these tires are kept on the business premises;

(3) a retail tire-selling business which is serving as a waste tire collection center if fewer than 1,500 waste tires are kept on the business premises;

(4) the department of wildlife and parks;

(5) a person engaged in a farming or ranching activity, including the operation of a feedlot as defined by K.S.A. 47-1501, and amendments thereto, as long as the accumulation has a beneficial use;

(6) a waste tire collection center where fewer than 1,500 used tires are kept on the premises;

(7) a waste tire collection center where 1,500 or more used tires are kept on the premises, if the owner demonstrates through sales and inventory records that such tires have value, as established in accordance with standards adopted by rules and regulations of the secretary;

(8) local units of government operating solid waste processing facilities and solid waste disposal areas permitted by the secretary under the authority of K.S.A. 65-3407, and amendments thereto;

(9) a person transporting: (A) Waste tires mixed with other municipal solid waste; (B) fewer than five waste tires for lawful disposal; (C) waste tires generated by the business, farming activities of the person or the person's employer; or (D) waste tires for a beneficial use approved by statute or rules and regulations adopted by the secretary; or

(10) a business engaged in processing, for resource recovery purposes, only waste tires generated by the business.

(f) All fees collected by the secretary pursuant to this section 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 to the credit of the waste tire management fund.

Sec. 4. On July 1, 2001, K.S.A. 2000 Supp. 65-3424d, as amended by section 246 of 2001 Senate Bill No. 15, is hereby amended to read as

follows: 65-3424d. (a) In addition to any other tax imposed upon the retail sale of new vehicle tires, there is hereby imposed on retail sales of new vehicle tires (excluding innertubes), including new tires mounted on a vehicle sold at retail for the first time, an excise tax ~~at the following rate: (1) Before July 1, 2001, \$ .50 per vehicle tire, and (2) on or after July 1, 2001, \$ .25 of \$ .25 per vehicle tire.~~ Such tax shall be paid by the purchaser of such tires and collected by the retailer thereof.

(b) The tax imposed by this section collected by the retailer shall become due and payable as follows: When the total tax for which any retailer is liable under this act does not exceed the sum of \$80 in any calendar year, the retailer shall file an annual return on or before January 25 of the following year; when the total tax liability does not exceed \$1,600 in any calendar year, the retailer shall file returns quarterly on or before the 25th day of the month following the end of each calendar quarter; when the total tax liability exceeds \$1,600 in any calendar year, the retailer shall file a return for each month on or before the 25th day of the following month. Each person collecting the tax imposed pursuant to this section shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts of taxes due and payable hereunder for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of sales of new tires shall be kept separate and apart from the records of other retail sales made by the person charged to collect the tax imposed pursuant to this section in order to facilitate the examination of books and records as provided herein.

(c) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of the person required to collect the tax imposed pursuant to this section as may be necessary to determine the accuracy of such reports required hereunder.

(d) The secretary of revenue is hereby authorized to administer and collect the tax imposed by this section and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any person liable to collect the taxes imposed hereunder refuses or neglects to pay them, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617, and amendments thereto.

(e) The secretary of revenue shall remit all revenue collected under the provisions of this section 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 to the credit of the waste tire management fund.

(f) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of any taxes, penalties or interest due, or to become due, under the provisions of this act, the secretary may require any person charged with the collection of such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

(g) The secretary of revenue and the secretary of health and environment shall cooperate to: (1) Ensure that retailers required to collect the tax imposed by this section collect such tax on sales of tires for all vehicles, as defined by K.S.A. 65-3424, and amendments thereto; and (2) develop and distribute to tire retailers educational materials that emphasize appropriate waste tire management practices.

Sec. 5. On July 1, 2001, K.S.A. 2000 Supp. 65-3424k, as amended by section 6 of 2001 House Bill No. 2131, is hereby amended to read as follows: 65-3424k. (a) Before July 1, 2003, the secretary may undertake appropriate abatement action and may enter into contracts for the abatement of waste tires accumulated before July 1, 1990, utilizing funds from the waste tire management fund.

(b) Any authorized representative of the secretary may enter, at reasonable times and upon written notice, onto any property or premises where an accumulation of waste tires is located to conduct: (1) An in-

spection and site assessment to determine whether the accumulation creates a nuisance or risk to public health and safety or to the environment; or (2) interim measures to minimize risk to public health and safety or to the environment.

(c) Whenever the secretary has reason to believe that an accumulation of waste tires creates a nuisance or risk to public health and safety or to the environment or is in violation of rules and regulations adopted by the secretary or conditions of a permit issued by the secretary, the secretary may require the person or persons responsible for the accumulation to carry out abatement activities. Such abatement activities shall be performed in accordance with a plan approved by the secretary. The secretary shall give notice, by letter, to the property owner and responsible parties that the waste tires constitute a nuisance or risk to public health or the environment, and that the waste tire accumulation must be abated within a specified period. The secretary may undertake abatement action utilizing funds from the waste tire management fund if: (1) The waste tires were accumulated before July 1, 1990, and abated before July 1, 2003; or

(2) the waste tires were accumulated after July 1, 1990, and the responsible parties fail to take the required action within the time period specified in the notice. The department and its representatives are authorized to enter private property to perform abatement activities if the responsible party fails to perform required clean-up work, but no entry shall be made without the property owner's consent except upon notice and hearing in accordance with the Kansas administrative ~~procedures~~ *procedure act*.

(d) All costs incurred by the secretary in abatement of waste tires accumulated after July 1, 1990, or in performing interim measures, including administrative and legal expenses, are recoverable from a responsible party or parties and may be recovered in a civil action in district court brought by the secretary. If any abatement costs are recovered under this section, the city or county that shared in the cost of the abatement action shall be reimbursed its costs not to exceed 25% of the amount recovered. The remaining amount recovered shall be remitted to the state treasurer, ~~who 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 and credit it to the credit of the waste tire management fund.~~ *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 and credit it to the credit of the waste tire management fund.* An action to recover abatement or interim measures costs may be commenced at any stage of an abatement.

(e) In performing or entering contracts for abatement actions under this section, the secretary shall give preference to actions that recycle waste tires or burn waste tires for energy recovery. Direct abatement expenditures may include landfilling when waste tires are contaminated or when feasible in-state markets cannot be identified.

(f) Permits granted by the secretary pursuant to K.S.A. 65-3424b, and amendments thereto, shall not be transferable and may be revoked or suspended whenever the secretary determines that the permit holder is operating in violation of this act or rules and regulations adopted pursuant to the act; is creating or threatens to create a hazard to persons, property or the environment; or is creating or threatens to create a public nuisance. The secretary may also revoke, suspend or refuse to issue a permit when the secretary determines that past or continuing violations of the provisions of K.S.A. 65-3409, and amendments thereto, have been committed by the applicant or permit holder.

(g) Neither the state of Kansas nor the waste tire management fund shall be liable to any owner, operator or responsible party for the loss of business, damages or taking of property associated with any abatement or enforcement action taken pursuant to this section.

(h) The secretary shall enter into contracts with one or more associations of tire retailers to: (1) Assist in disseminating information to all tire retailers on the requirements of solid waste laws and rules and regulations relating to waste tires; (2) establish a point of contact for persons requesting information on solid waste laws and rules and regulations relating to waste tires; (3) assist in planning and implementing conferences, workshops, and other requested training events for persons involved in the generation, transportation, processing, or disposal of waste tires; and

(4) assemble and analyze data on waste tire management by tire retailers in Kansas.

Sec. 6. On July 1, 2001, K.S.A. 2000 Supp. 66-1,139a, as amended by section 273 of 2001 Senate Bill No. 15, is hereby amended to read as follows: 66-1,139a. All amounts collected under K.S.A. 66-1,139, and amendments thereto, for the purpose of registration of motor vehicles, pursuant to 49 U.S.C. ~~11506~~ 14504, shall be remitted by the state corporation commission 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 to the credit of the base state registration clearing fund which is hereby created. Payments due and owing to participating states pursuant to 49 U.S.C. ~~11506~~ 14504 and refunds for overpayment shall be made from such fund. The state corporation commission shall reconcile such clearing fund monthly with balances remitted ~~monthly~~ *in accordance with this section.*

Sec. 7. On July 1, 2001, K.S.A. 75-4221, as amended by section 1 of 2001 House Bill No. 2169, is hereby amended to read as follows: 75-4221.

(a) Any state agency which is authorized to maintain a bank account, shall be responsible for determining that the securities pledged, assigned, deposited or in which a security interest is granted by the depository bank are adequate to secure the balance in the account pursuant to K.S.A. 75-4218, and amendments thereto. The agency shall immediately notify the board if the securities pledged, assigned, deposited or in which a security ~~interested~~ interest is granted by the depository bank have become inadequate. The board shall immediately notify such depository bank and demand that additional security be pledged to make good such inadequacy and in default of such additional security being promptly furnished, the board shall instruct the treasurer to close the account.

(b) In cases where a depository bank fails to meet the requirements established by the board pursuant to K.S.A. 75-4232, and amendments thereto, the board shall instruct the treasurer to advise the depository bank it must select one of the following options:

(1) Close the account for the full amount, including accrued interest and without penalty if the deposit exceeds seven days, or

(2) convert the account to a repurchase agreement under terms acceptable to the board.

(c) In the event of the insolvency or dissolution from any cause of a depository bank having a state bank account of any type, the state shall be entitled to file a claim for the full amount of such account and shall retain or collect dividends or interest on securities pledged by such depository bank until the amount of the dividends or interest added to the amount realized from sale of any securities so pledged to the state equals the amount of the account and any interest due thereon.

The state shall be fully responsible to any depository bank for the safe return of any securities deposited in the state treasury in accordance with this act.

Sec. 8. On July 1, 2001, K.S.A. 79-32,105, as amended by section 4 of 2001 Senate Bill No. 44, is hereby amended to read as follows: 79-32,105. (a) The director shall ~~pay to the treasurer of the state daily~~ *remit* the entire amount collected ~~during the preceding day~~, under the provisions of this act and from the income tax imposed upon individuals, corporations, estates or trusts pursuant to the “Kansas income tax act” less amounts withheld as provided in subsection (b) and any amounts credited to the IMPACT program repayment fund or the IMPACT program services fund under K.S.A. 74-50,107 and amendments thereto, ~~which amounts shall be credited 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 to the credit of the state general fund.*

(b) A revolving fund, designated as “income tax refund fund” not to exceed \$4,000,000 shall be set apart and maintained by the director from income tax collections, withholding tax collections, and estimated tax collections and held by the state treasurer for prompt payment of all income tax refunds, for the payment of interest as provided in subsection (e), for payment of homestead property tax refunds in accordance with the homestead property tax refund act and for payment of property tax refunds

allowed pursuant to the provisions of K.S.A. 2000 Supp. 79-255, and amendments thereto. The fund shall be in such amount, within the limit set by this section, as the director determines is necessary to meet current refunding requirements under this act.

(c) If the director discovers from the examination of the return, or upon claim duly filed by the taxpayer or upon final judgment of the court that the income tax, withholding tax, declaration of estimated tax or any penalty or interest paid by or credited to any taxpayer is in excess of the amount legally due, the director shall certify to the director of accounts and reports the name of the taxpayer, the amount of refund and such other information as the director may require. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the taxpayer out of the fund provided in subsection (b), except that no refund shall be made for a sum less than \$5, but such amount may be claimed by the taxpayer as a credit against the taxpayer's tax liability in the taxpayer's next succeeding taxable year.

(d) When a resident taxpayer dies, and the director determines that a refund is due the claimant not in excess of \$100, the director shall certify to the director of accounts and reports the name and address of the claimant entitled to the refund and the amount of the refund. A refund may be made upon a claim duly made on behalf of the estate of the deceased or in the absence of any such claim upon a claim by a surviving spouse and if none upon the claim by any heir at law. Upon receipt of such certification the director of accounts and reports shall issue a warrant on the state treasurer for the payment to the claimant out of the fund provided in subsection (b).

(e) Interest shall be allowed and paid at the rate of 12% per annum upon any overpayment of the income tax imposed upon individuals, corporations, estates or trusts pursuant to the Kansas income tax act for any period prior to January 1, 1995, 6% per annum for the period commencing on January 1, 1995, and ending on December 31, 1997, and at the rate prescribed and determined pursuant to K.S.A. 79-2968, and amendments thereto, for any period thereafter.

For the purposes of this subsection:

(1) Any return filed before the last day prescribed for the filing thereof shall be considered as filed on such last day, determined without regard to any extension of time granted the taxpayer;

(2) any tax paid by the taxpayer before the last day prescribed for its payment, any income tax withheld from the taxpayer during any calendar year and any amount paid by the taxpayer as estimated income tax for a taxable year shall be deemed to have been paid on the last day prescribed for filing the return for the taxable year to which such amount constitutes a credit or payment, determined without regard to any extension of time granted the taxpayer;

(3) if any overpayment of tax results from a carryback of a net operating loss or net capital loss, such overpayment shall be deemed not to have been made prior to the close of the taxable year in which such net operating loss or net capital loss arises. For purposes of this paragraph, the return for the loss year shall not be deemed to be filed before claim for such overpayment is filed;

(4) in the case of a credit, interest shall be allowed and paid from the date of the overpayment to the due date of the amount against which the credit is taken, except that if any overpayment of income tax is claimed as a credit against estimated tax for the succeeding taxable year, such amount shall be considered as a payment of the income tax for the succeeding taxable year, whether or not claimed as a credit in the return of estimated tax for such succeeding taxable year, and no interest shall be allowed or paid in such overpayment for the taxable year in which the overpayment arises;

(5) in the case of a tax return which is filed after the last date prescribed for filing such return, determined with regard to extensions, no interest shall be allowed or paid for any period before the date on which the return is filed;

(6) in the case of a refund, interest shall be allowed and paid from the date of the overpayment to a date preceding the date of the refund check by not more than 30 days, as determined by the director, whether or not such refund check is accepted by the taxpayer after tender of such check to the taxpayer, but acceptance of such check shall be without

prejudice to any right of the taxpayer to claim any additional overpayment and interest thereon; and

(7) if any overpayment is refunded within two months after the last date prescribed, or permitted by extension of time, for filing the return of such tax, or within two months after the return was filed, whichever is later, no interest shall be allowed or paid. For the purposes of this section, an overpayment shall be deemed to have been refunded at the time the refund check in the amount of the overpayment, plus any interest due thereon, is deposited in the United States mail.

Sec. 9. On July 1, 2001, K.S.A. 2000 Supp. 79-3425, as amended by section 454 of 2001 Senate Bill No. 15, is hereby amended to read as follows: 79-3425. All of the amounts collected under the motor-fuel tax law and amendments thereto, except amounts collected pursuant to K.S.A. 79-3408c, and amendments thereto, shall be remitted by the director 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 credit such amount as the director shall order in the motor-vehicle fuel tax refund fund to be used for the purpose of paying motor-vehicle fuel tax refunds as provided by law. The state treasurer shall credit the remainder of such amounts as follows: To the state highway fund amounts specified in K.S.A. 79-34,142, and amendments thereto, to a special city and county highway fund which is hereby created, amounts specified in K.S.A. 79-34,142, and amendments thereto, to be apportioned and distributed in the manner provided in K.S.A. 79-3425c, and amendments thereto, and to the *current production account and the new production account of the Kansas qualified agricultural ethyl alcohol producer incentive fund*, which is hereby created in the state treasury, in the amount and in the manner specified in K.S.A. 79-34,161, and amendments thereto, to be expended in the manner provided in K.S.A. 79-34,162, and amendments thereto.

Sec. 10. K.S.A. 2000 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 deposited daily with the state treasurer. The state treasurer shall credit all revenue received from this act, less amounts withheld as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to 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 including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. 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) The state treasurer shall credit  $\frac{5}{8}$ s 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.

(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 redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing to be of statewide as well as local importance or will create a major tourism area for the state as ~~specified in subsection (a)(1)(D) of K.S.A. 12-1774 defined in K.S.A. 2000 Supp. 12-1770a~~, 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, 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.

Sec. 11. On July 1, 2001, K.S.A. 2000 Supp. 79-3620, as amended by section 10 of this act, 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 ~~deposited daily with~~ *remitted to* the state treasurer. ~~The state treasurer shall credit all revenue received from this act 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 subsection (c) and (d), 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 including refunds authorized under the provisions of K.S.A. 79-3635, and amendments thereto. 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) The state treasurer shall credit  $\frac{5}{8}$ s 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.

(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 redevelopment district occupied by a redevelopment project that was determined by the secretary of commerce and housing 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. 2000 Supp. 12-1770a, 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, 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.

Sec. 12. K.S.A. 2000 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 deposited daily with the state treasurer and the state treasurer shall credit the same, less amounts set apart as provided in subsection (b) and amounts credited as provided in subsection (c) and (d), to the general revenue fund of the state.

(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) The state treasurer shall credit  $\frac{5}{8}$ s 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.

(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 and housing to be of state-wide as well as local importance or will create a major tourism area for the state as ~~specified in subsection (a)(1)(D) of K.S.A. 12-1774~~ *defined in K.S.A. 2000 Supp. 12-1770a*, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, 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, 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.

Sec. 13. On July 1, 2001, K.S.A. 2000 Supp. 79-3710, as amended by section 12 of this act, 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 ~~deposited daily with remitted to the state treasurer and the state treasurer shall credit the same~~ *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) and (d), to the ~~general revenue fund of the state~~ *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) The state treasurer shall credit  $\frac{5}{8}$ s 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.

(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 and housing to be of state-wide as well as local importance or will create a major tourism area for the state as defined in K.S.A. 2000 Supp. 12-1770a, and amendments thereto, to the city bond finance fund created by subsection (d) of K.S.A. 79-3620, 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, 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.

Sec. 14. On July 1, 2001, K.S.A. 79-41a03, as amended by section 1 of 2001 Senate Bill No. 42, is hereby amended to read as follows: 79-41a03. (a) The tax levied and collected pursuant to K.S.A. 79-41a02, and amendments thereto, shall become due and payable by the club, caterer, drinking establishment or temporary permit holder monthly, or on or before the 25th day of the month immediately succeeding the month in which it is collected, but any club, caterer, drinking establishment or temporary permit holder filing an annual or quarterly return under the Kansas retailers’ sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time the club, caterer, drinking establishment or temporary permit holder pays such retailers’ sales tax. Each club, caterer, drinking establishment or temporary permit holder shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross receipts derived from the sale of alcoholic liquor by the club, caterer, drinking establishment or temporary permit holder for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross receipts derived from the sale of alcoholic liquor shall be kept separate and apart from the records of other retail sales made by a club, caterer,

drinking establishment or temporary permit holder in order to facilitate the examination of books and records as provided herein.

(b) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a club, caterer, drinking establishment or temporary permit holder as may be necessary to determine the accuracy of such reports required hereunder.

(c) The secretary of revenue is hereby authorized to administer and collect the tax imposed hereunder and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any club, caterer, drinking establishment or temporary permit holder liable to pay the tax imposed hereunder refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617, and amendments thereto.

(d) The secretary of revenue shall remit ~~daily to the state treasurer~~ all revenue collected under the provisions of this act *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 of each remittance in the state treasury. Subject to the maintenance requirements of the local alcoholic liquor refund fund created under K.S.A. 79-41a09, and amendments thereto, 25% of the remittance shall be credited to the state general fund, 5% shall be credited to the community alcoholism and intoxication programs fund created by K.S.A. 41-1126, and amendments thereto, and the balance shall be credited to the local alcoholic liquor fund created by K.S.A. 79-41a04, and amendments thereto.

(e) Whenever, in the judgment of the secretary of revenue, it is necessary, in order to secure the collection of any tax, penalties or interest due, or to become due, under the provisions of this act, the secretary may require any person subject to such tax to file a bond with the director of taxation under conditions established by and in such form and amount as prescribed by rules and regulations adopted by the secretary.

(f) The amount of tax imposed by this act shall be assessed within three years after the return is filed, and no proceedings in court for the collection of such taxes shall be begun after the expiration of such period except in the cases of fraud. In the case of a false or fraudulent return with intent to evade tax, the tax may be assessed or a proceeding in court for collection of such tax may be begun at any time, within two years from the discovery of such fraud. No refund or credit shall be allowed by the director after three years from the date of payment of the tax as provided in this act unless before the expiration of such period a claim therefor is filed by the taxpayer, and no suit or action to recover on any claim for refund shall be commenced until after the expiration of six months from the date of filing a claim therefor with the director. Before the expiration of time prescribed in this section for the assessment of additional tax or the filing of a claim for refund, the director is hereby authorized to enter into an agreement in writing with the taxpayer consenting to the extension of the periods of limitations for the assessment of tax or for the filing of a claim for refund, at any time prior to the expiration of the periods of limitations. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

Sec. 15. K.S.A. 2000 Supp. 79-3620, 79-3620, as amended by section 16 of 2001 Substitute for House Bill No. 2005, 79-3710 and 79-3710, as amended by section 18 of 2001 Substitute for House Bill No. 2005 are hereby repealed.

Sec. 16. On July 1, 2001, K.S.A. 17-7515, as amended by section 66 of 2001 Senate Bill No. 15, 65-770, as amended by section 225 of 2001 Senate Bill No. 15, 72-6505, as amended by section 292 of 2001 Senate Bill No. 15, 75-4221, as amended by section 1 of 2001 House Bill No. 2169, 79-32,105, as amended by section 4 of 2001, Senate Bill No. 44, 79-32,105, as amended by section 448 of 2001 Senate Bill No. 15, 79-41a03, as amended by section 1 of 2001 Senate Bill No. 42 and 79-41a03, as amended by section 463 of 2001 Senate Bill No. 15 and K.S.A. 2000

Supp. 2-1011, as amended by section 9 of 2001 Senate Bill No. 15, 8-1,112, as amended by section 30 of 2001 Senate Bill No. 15, 9-1111b, as amended by section 41 of 2001 Senate Bill No. 15, 9-1111b, as amended by section 8 of 2001 House Bill No. 2482, 9-1804, as amended by section 14 of 2001 House Bill No. 2482, 9-1804, as amended by section 45 of 2001 Senate Bill No. 15, 65-708a, as amended by section 223 of 2001 Senate Bill No. 15, 65-750, as amended by section 224 of 2001 Senate Bill No. 15, 65-3424b, as amended by section 245 of 2001 Senate Bill No. 15, 65-3424b, as amended by section 3 of 2001 House Bill No. 2131, 65-3424d, as amended by section 246 of 2001 Senate Bill No. 15, 65-3424d, as amended by section 4 of 2001 House Bill No. 2131, 65-3424k, as amended by section 6 of 2001 House Bill No. 2131, 65-3424k, as amended by section 247 of 2001 Senate Bill No. 15, 66-1,139, as amended by section 272 of 2001 Senate Bill No. 15, 66-1,139a, as amended by section 273 of 2001 Senate Bill No. 15, 66-1,139a, as amended by section 15 of 2001 House Bill No. 2291, 66-1a01, as amended by section 275 of 2001 Senate Bill No. 15, 79-3425, as amended by section 454 of 2001 Senate Bill No. 15, 79-3425, as amended by section 1 of 2001 House Bill No. 2011, 79-3620, as amended by section 10 of this act, 79-3620, as amended by section 460 of 2001 Senate Bill No. 15, 79-3710, as amended by section 12 of this act and 79-3710, as amended by section 461 of 2001 Senate Bill No. 15 are hereby repealed.

Sec. 17. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

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\_\_\_\_\_  
*Speaker of the House.*

\_\_\_\_\_  
*Chief Clerk of the House.*

Passed the SENATE \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*

\_\_\_\_\_  
*Secretary of the Senate.*

APPROVED \_\_\_\_\_

\_\_\_\_\_  
*Governor.*