

# Testimony in Support of Significantly Reducing or Eliminating the Sales Tax on Groceries

Presented to the House Committee on Taxation  
by Derek Schmidt  
January 25, 2022

Chair Smith and Members of the Committee:

Thank you for this opportunity to testify today in support of the policy of significantly reducing or eliminating the state sales tax on groceries. I am a strong supporter of this public policy. I take no position on the specific bills before you today because I want to assist the Legislature in approaching this issue overall and to help you thoughtfully work through some of the important details that so far have received little attention in the soundbite approach to this issue.

Kansas has the second highest state-level sales tax on groceries behind only Mississippi, which is also considering reducing its grocery sales tax this year. News reports indicate the Mississippi House of Representatives, as one part of comprehensive tax-relief legislation, has approved a reduction of its current 7 percent sales tax on groceries to 5.5 percent next year with a further phase down to 4 percent over the subsequent five years.

Part of the reason the Kansas sales tax on groceries is so high is tax increases on groceries enacted in recent years. In 2010, Kansas enacted the largest sales tax increase in state history – a nearly 19 percent tax hike that included taxing groceries – by raising the state sales tax rate to 6.3 percent from 5.3 percent. In 2015, the Legislature further increased the state sales tax rate to the current 6.5 percent.

So sky-high sales tax on food is a recent phenomenon in Kansas, and relief from it is without doubt warranted. I strongly support providing that relief, as do legislators of both political parties in both chambers. On November 5, 2021, I wrote leaders in the Senate and House of Representatives and urged the Legislature to significantly reduce or eliminate the state sales tax on food in order to help Kansans cope with the rising cost of food that is resulting from record levels of inflation. A copy of that letter is attached. As you know, inflation has reached its highest level in four decades, fueled by reckless federal fiscal and monetary policies in addition to the ongoing economic disruptions caused by the pandemic and related government responses. Kansas - and nearly every other state - also primarily owes our large state-budget “surplus” to Washington’s unsustainable spending spree. Therefore, I strongly urge you to proceed cautiously in determining what to do with this “surplus” because what goes up will inevitably come down.

In any event, recent years have seen repeated efforts to reduce or eliminate the sales tax on groceries, including a proposed constitutional amendment that had bipartisan sponsorship in the Senate in 2016 and the measure to reduce and then phase-out the state sales tax as future state revenues grew that was passed in 2019 but was vetoed by the governor. Notably, nearly every other provision in that 2019 tax-relief legislation ultimately became law when the

legislature overrode another gubernatorial veto in 2021; one of the *only* lasting effects of that 2019 veto was to keep the nation's second-highest grocery tax in place.

As you approach this issue thoughtfully, numerous policy decisions must be made. Here are a few:

- Should the Legislature provide relief only from the *state* sales tax on food or from *all* sales tax on food, including sales taxes levied locally?
- Should the state sales tax on food be eliminated or should it be reduced to a favored level below the general sales tax rate? Models of both approaches exist in other states.
- If the state sales tax on food is to be eliminated entirely, should that be done all at once or should it be phased out over time to ensure that future revenues will sustain the reductions without creating pressure for other tax increases?
- What should qualify as "food" for purposes of a sales tax exemption? Should it be only healthy food or should all ingestible items be covered? Should it be only groceries purchased at a store or should restaurant meals be exempt? What about catering? Should beverages be exempt? What about candy? Or caviar? Should a new definition of food be created out of whole cloth for the purpose of this exemption or should the exemption be tied to an existing definition, such as items covered by the WIC program?
- Should state sales tax relief be provided *ONLY* for food or should the food sales tax reduction or elimination be part of a larger tax-relief package, such as one that also repeals some or all of the record-high 2010 overall sales tax rate increase or some of the 2015 sales tax increase? After all, while food is tremendously important, the high state sales tax rates also cause other harm, particularly in our border communities where consumers can gain tax relief merely by driving across the state line to businesses that compete with Kansas businesses.
- If the sales tax on food is not eliminated, should some version of the income tax credit for food purchases be restored so that low-income Kansans could receive a complete exemption from being taxed on food while other Kansans continue to pay some amount of tax? Even if the state sales tax on food is eliminated, should this income tax credit be restored so low-income Kansans do not bear the cost of local sales taxes on food?

Thank you for this opportunity to testify in support of significantly reducing or eliminating the state sales tax on food. Doing so is good public policy, and I favor it. But the policy choices before you regarding how to shape this preference or exemption are not simple, so I encourage you to work through them thoughtfully in order to enact fair, sound, responsible and sustainable relief from sales tax on food that will help Kansans make ends meet and cope with the devastating effects of inflation.

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☆☆☆ **DEREK** ☆☆☆  
**SCHMIDT**  
**G O V E R N O R**

November 5, 2021

Honorable Ty Masterson  
President of the Senate  
State Capitol – Room 332-E  
Topeka, Kansas 66612

Honorable Ron Ryckman, Jr.  
Speaker of the House  
State Capitol – Room 370-W  
Topeka, Kansas 66612

Dear Mr. President and Mr. Speaker:

I write to ask the Legislature to eliminate, or at least significantly reduce, the sales tax on groceries during its 2022 session.

As you know, this tax relief has been proposed for years by members of both major political parties. The most significant recent consideration was in 2019, when the Legislature approved a one-cent reduction in the sales tax on groceries, but regrettably it was met with a veto from Governor Kelly.

Kansas families need the Legislature to give renewed attention to this vital tax relief during the 2022 session. Doing so is one way our State can support hard-working Kansans who are facing tremendous economic hardship from ill-advised government policies. The past two years have witnessed numerous disasters, both natural and government-made, that have strained the budgets of many Kansas families to the breaking point: the COVID-19 pandemic itself, state-ordered business lockdowns that shuttered many small businesses permanently, job and income disruption caused by the need for parents to stay home to care for children whose schools were closed to in-person learning, price increases of basic goods and services from inflation caused by massive government spending, gasoline and home-heating price spikes caused by poor energy policy, a broken unemployment compensation system that failed to make timely payments to thousands of Kansans who lost their jobs, and now overreaching (and in my view illegal) government vaccine mandates that threaten to put many Kansans out of work perhaps without qualifying for unemployment benefits.

Eliminating the sales tax on groceries can immediately benefit all Kansans, and it will provide the greatest help to those in greatest need. This policy is already in effect in at least 43 states - at least 37 levy no sales tax on groceries, and at least six more have a reduced grocery tax. Indeed, Kansas is in the distinct minority as one of no more than six states that tax grocery sales at the full rate.

As we work together to help our state economy to grow and recover from the damaging effects of COVID-19 and ill-considered government policies, it is vitally important to support working families. Everywhere I go in Kansas, I hear the same concern: Businesses that are critical in our state's economic health cannot find enough workers to support their existing operations, let alone growth and expansion. And over the past decade, our Kansas population grew at the second-slowest pace of any decade in the past century - only the Great Depression of the 1930s was worse.

If Kansas is to thrive and grow, our public policies must attract, retain, and support working families. Our state must be an affordable place to live, work, and raise a family. In light of the state's current budget situation, carefully-constructed tax relief that benefits all Kansans by eliminating or at least significantly reducing the sales tax on groceries is possible, necessary, and overdue. I urge you to make it a reality during the coming legislative session and stand ready to assist.

Sincerely,



Derek Schmidt  
Kansas Attorney General

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