

HOUSE BILL No. 2711

By Committee on Taxation

2-16

1 AN ACT concerning taxation; reducing the rate of sales and compensating
2 use tax imposed on all sales and further reducing the rate on sales of
3 food and food ingredients; relating to income tax; making the food
4 sales tax credit a refundable income tax credit and discontinuing such
5 credit when sales tax on food is 0%; amending K.S.A. 13-13a39, 79-
6 32,271, 79-3620 and 79-3710 and K.S.A. 2021 Supp. 12-189a, 79-
7 3602, 79-3603 and 79-3703 and repealing the existing sections.
8

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

10 New Section 1. (a) There is hereby levied and there shall be
11 collected and paid a tax upon the gross receipts from the sale of food and
12 food ingredients. The rate of tax shall be ~~3.5%~~, except as otherwise
13 provided pursuant to section 2, and amendments thereto.

2%

14 (b) The provisions of this subsection shall not apply to prepared food
15 unless sold without eating utensils provided by the seller and described
16 below:

17 (1) Food sold by a seller whose proper primary NAICS classification
18 is manufacturing in sector 311, except subsector 3118 (bakeries);

19 (2) (A) food sold in an unheated state by weight or volume as a single
20 item; or

21 (B) only meat or seafood sold in an unheated state by weight or
22 volume as a single item;

23 (3) bakery items, including bread, rolls, buns, biscuits, bagels,
24 croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars,
25 cookies and tortillas; or

26 (4) food sold that ordinarily requires additional cooking, as opposed
27 to just reheating, by the consumer prior to consumption.

28 (c) The provisions of this section shall be a part of and supplemental
29 to the Kansas retailers' sales tax act.

30 New Sec. 2. (a) Commencing July 1, 2023, and each July 1
31 thereafter, if the balance of the budget stabilization fund, established in
32 K.S.A. 75-6706, and amendments thereto, is \$100,000,000 or greater, the
33 director of legislative research shall certify to the secretary of revenue and
34 the director of the budget that such balance requirement was satisfied.
35 Upon receipt of such certification, the secretary of revenue shall reduce by
36 ~~1.2%~~ the state rate for sales and compensating use taxes on food and food

1%

1 ingredients set forth in section 1, and amendments thereto. Such new rate
 2 shall go into effect ~~the following January 1.~~ The secretary shall publish the
 3 new rate for sales and compensating use taxes to take effect pursuant to
 4 law. The rate established pursuant to this subsection shall remain in effect
 5 unless further reduced pursuant to this section. Upon the rate being
 6 reduced to 0%, the rate shall be set permanently at 0% and no further
 7 reductions shall occur. In no event shall the rate be reduced pursuant to
 8 this section below 0%.

October 1 of the same year

9 (b) The provisions of this section shall be a part of and supplemental
 10 to the Kansas retailers' sales tax act.

11 Sec. 3. K.S.A. 2021 Supp. 12-189a is hereby amended to read as
 12 follows: 12-189a. The following sales shall be subject to the taxes levied
 13 and collected by all cities and counties under the provisions of K.S.A. 12-
 14 187 et seq., and amendments thereto:

15 (a) All sales of natural gas, electricity, heat and water delivered
 16 through mains, lines or pipes to residential premises for noncommercial
 17 use by the occupant of such premises and all sales of natural gas,
 18 electricity, heat and water delivered through mains, lines or pipes for
 19 agricultural use, except that effective January 1, 2006, the provisions of
 20 this subsection shall expire for sales of water pursuant to this subsection;

21 (b) all sales of propane gas, LP-gas, coal, wood and other fuel sources
 22 for the production of heat or lighting for noncommercial use of an
 23 occupant of residential premises; ~~and~~

24 (c) all sales of intrastate telephone and telegraph services for
 25 noncommercial use; *and*

26 (d) *all sales of food and food ingredients.*

27 Sec. 4. K.S.A. 13-13a39 is hereby amended to read as follows: 13-
 28 13a39. ~~The following~~ Sales *subject to the countywide and city retailers'*
 29 *sales tax pursuant to K.S.A. 12-189a, and amendments thereto,* shall also
 30 be subject to the taxes levied by Washburn University of Topeka under the
 31 provisions of K.S.A. 13-13a38, and amendments thereto:

32 ~~(a) All sales of natural gas, electricity, heat and water delivered~~
 33 ~~through mains, lines or pipes to residential premises for noncommercial~~
 34 ~~use by the occupant of such premises and all sales of natural gas,~~
 35 ~~electricity, heat and water delivered through mains, lines or pipes for~~
 36 ~~agricultural use;~~

37 ~~(b) all sales of propane gas, LP-gas, coal, wood and other fuel sources~~
 38 ~~for the production of heat or lighting for noncommercial use of an~~
 39 ~~occupant of residential premises; and~~

40 ~~(c) all sales of intrastate telephone and telegraph services for~~
 41 ~~noncommercial use.~~

42 Sec. 5. K.S.A. 79-32,271 is hereby amended to read as follows: 79-
 43 32,271. (a) ~~For any taxable year commencing after December 31, 2014, A~~

1 administration food code so as to prevent food borne illnesses.

2 (ppp) (1) "Soft drinks" means nonalcoholic beverages that contain
3 natural or artificial sweeteners.

4 (2) "Soft drinks" does not include beverages that contain milk or milk
5 products, soy, rice or similar milk substitutes or beverages that are greater
6 than 50% vegetable or fruit juice by volume.

7 Sec. 7. K.S.A. 2021 Supp. 79-3603 is hereby amended to read as
8 follows: 79-3603. For the privilege of engaging in the business of selling
9 tangible personal property at retail in this state or rendering or furnishing
10 any of the services taxable under this act, there is hereby levied and there
11 shall be collected and paid a tax at the rate of ~~6.5%~~ 6.3%. On and after
12 July 1, ~~2021~~, ~~16.154%~~ 2022, 17.619% of the ~~6.5% rate tax rates~~ imposed
13 pursuant this section and the rates provided in sections 1 and 2, and
14 amendments thereto, shall be levied for the state highway fund, the state
15 highway fund purposes and those purposes specified in K.S.A. 68-416,
16 and amendments thereto, and all revenue collected and received from such
17 tax levy shall be deposited in the state highway fund.

6.5%

18 Within a redevelopment district established pursuant to K.S.A. 74-
19 8921, and amendments thereto, there is hereby levied and there shall be
20 collected and paid an additional tax at the rate of 2% until the earlier of the
21 date the bonds issued to finance or refinance the redevelopment project
22 have been paid in full or the final scheduled maturity of the first series of
23 bonds issued to finance any part of the project.

24 Such tax shall be imposed upon:

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

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

40 (c) the gross receipts from the sale or furnishing of gas, water,
41 electricity and heat, which sale is not otherwise exempt from taxation
42 under the provisions of this act, and whether furnished by municipally or
43 privately owned utilities, except that, on and after January 1, 2006, for

1 collected or received from the tax imposed by K.S.A. 79-3603(c), and
 2 amendments thereto, on the sale or furnishing of gas, water, electricity and
 3 heat for use or consumption within the intermodal facility district
 4 described in this subsection, shall be credited by the state treasurer to the
 5 state highway fund. Such revenue may be transferred by the secretary of
 6 transportation to the rail service improvement fund pursuant to law. The
 7 provisions of this subsection shall take effect upon certification by the
 8 secretary of transportation that a notice to proceed has been received for
 9 the construction of the improvements within the intermodal facility
 10 district, but not later than December 31, 2010, and shall expire when the
 11 secretary of revenue determines that the total of all amounts credited
 12 hereunder and pursuant to K.S.A. 79-3710(e), and amendments thereto, is
 13 equal to \$53,300,000, but not later than December 31, 2045. Thereafter, all
 14 revenues shall be collected and distributed in accordance with applicable
 15 law. For all tax reporting periods during which the provisions of this
 16 subsection are in effect, none of the exemptions contained in K.S.A. 79-
 17 3601 et seq., and amendments thereto, shall apply to the sale or furnishing
 18 of any gas, water, electricity and heat for use or consumption within the
 19 intermodal facility district. As used in this subsection, "intermodal facility
 20 district" shall consist of an intermodal transportation area as defined by
 21 K.S.A. 12-1770a(oo), and amendments thereto, located in Johnson county
 22 within the polygonal-shaped area having Waverly Road as the eastern
 23 boundary, 191st Street as the southern boundary, Four Corners Road as the
 24 western boundary, and Highway 56 as the northern boundary, and the
 25 polygonal-shaped area having Poplar Road as the eastern boundary, 183rd
 26 Street as the southern boundary, Waverly Road as the western boundary,
 27 and the BNSF mainline track as the northern boundary, that includes
 28 capital investment in an amount exceeding \$150 million for the
 29 construction of an intermodal facility to handle the transfer, storage and
 30 distribution of freight through railway and trucking operations.

31 Sec. 9. K.S.A. 2021 Supp. 79-3703 is hereby amended to read as
 32 follows: 79-3703. (a) There is hereby levied and there shall be collected
 33 from every person in this state a tax or excise for the privilege of using,
 34 storing, or consuming within this state any article of tangible personal
 35 property. Such tax shall be levied and collected in an amount equal to the
 36 consideration paid by the taxpayer multiplied by the rate of ~~6.5%~~ ~~6.3%~~.

6.5%

37 (b) *Commencing on July 1, 2022, and thereafter, the state rate on the*
 38 *amount equal to the consideration paid by the taxpayer from the sale of*
 39 *food and food ingredients as provided in K.S.A. 79-3603, and amendments*
 40 *thereto, shall be as set forth in sections 1 and 2, and amendments thereto.*

41 (c) On and after July 1, ~~2021, 16.154%~~ ~~at 2022, 17.619%~~ of the ~~6.5%~~
 42 ~~rate~~ tax rates imposed pursuant to this section and the rates provided in
 43 sections 1 and 2, and amendments thereto, shall be levied for the state