

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **HB 2059**, as amended by Senate Committee, on page 4, in line 35, before the period, by inserting "including refunds authorized under the provisions of the food sales tax refund act, and amendments thereto";

On page 31, following line 43, by inserting:

"New Sec. 13. The provisions of sections 13 through 20, K.S.A. 79-3632 and 79-3639a, and amendments thereto, shall be known and may be cited as the food sales tax refund act.

New Sec. 14. As used in the food sales tax refund act unless the context clearly indicates otherwise:

(a) "Income" means adjusted gross income determined under the Kansas income tax act without regard to the modifications specified by subsections (c)(i), (ii) regarding Kansas public employee retirement system retirement benefits, (vii), (ix) and (xii) of K.S.A. 79-32,117, and amendments thereto.

(b) "Household" means a claimant and all other persons for whom a personal exemption is claimed who together occupy a common residence.

(c) "Claimant" means a person who has filed a claim for a refund or credit under the provisions of this act and was, during the entire calendar year preceding the year in which the claim was filed for relief under this act, domiciled in this state, was a member of a household, had income of not more than \$36,700 in the calendar year for which a claim is filed and was: (1) A person having a disability; (2) a person other than a person included under clause (1), who has attained 55 years of age in the calendar year for which a claim is filed; or (3) a person other than a person included under clause

(1) or (2) having one or more dependent children under 18 years of age residing at the person's homestead during the calendar year for which a claim is filed.

(d) "Head of household" means the person filing a claim under the provisions of this act.

(e) "Disability" means: (1) Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months, and an individual shall be determined to be under a disability only if the physical or mental impairment or impairments are of such severity that the individual is not only unable to do the individual's previous work but cannot, considering age, education and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which the individual lives or whether a specific job vacancy exists for the individual, or whether the individual would be hired if application was made for work. For purposes of the preceding sentence, with respect to any individual, "work which exists in the national economy" means work which exists in significant numbers either in the region where the individual lives or in several regions of the country; for purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques; or

(2) blindness and inability by reason of blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which the individual has previously engaged with some regularity and over a substantial period of time.

(f) "Blindness" means central visual acuity of $\frac{20}{200}$ or less in the better eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest

diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for the purpose of this paragraph as having a central visual acuity of $^{20}/_{200}$ or less.

New Sec. 15. The right to file a claim for a refund under the food sales tax refund act shall be personal to the claimant and shall not survive such claimant's death, but such right may be exercised on behalf of a claimant by such claimant's legal guardian, conservator or attorney-in-fact. When a claimant dies after having filed a timely claim, the amount of such claim shall be disbursed to another member of the household as determined by the director of taxation. If the claimant was the only member of such claimant's household, the claim may be paid to such claimant's executor or administrator, but if neither is appointed and qualified, the amount of the claim may be paid upon a claim duly made to any heir at law. In the absence of any such claim within two years of the filing of the claim, the amount of the claim shall escheat to the state.

New Sec. 16. (a) (1) A claimant shall be entitled to a refund of retailers' sales taxes paid upon food during the calendar year 2013 and each year thereafter in the amount hereinafter provided. There shall be allowed for each member of a household of a claimant having income of \$18,350 or less, an amount equal to \$94. There shall be allowed for each member of a household of a claimant having income of more than \$18,350 but not more than \$36,700, an amount equal to \$47. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of \$47 or \$94, as the case requires. All such claims 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 by a person or persons designated by the director.

(2) As an alternative to the procedure described by subsection (a)(1), for all taxable years

commencing after December 31, 2012, there shall be allowed as a credit against the tax liability of a resident individual imposed under the Kansas income tax act an amount equal to \$47 or \$94, as the case requires, for each member of a household. There shall be allowed for a claimant who qualifies for an additional personal exemption amount pursuant to K.S.A. 79-32,121, and amendments thereto, an additional amount of \$47 or \$94, as the case requires. If the amount of such tax credit exceeds the claimant's income tax liability for such taxable year, such excess amount shall be refunded to the claimant.

(b) A head of household shall make application for refunds for all members of the same household upon a common form provided for the making of joint claims. All claims paid to members of the same household shall be paid as a joint claim by means of a single warrant.

(c) No claim for a refund of taxes under the provisions of the food sales tax refund act shall be paid or allowed unless such claim is actually filed with and in the possession of the department of revenue on or before April 15 of the year next succeeding the year in which such taxes were paid. The director of taxation may: (1) Extend the time for filing any claim under the provisions of this act when good cause exists therefor; or (2) accept a claim filed after the deadline for filing in the case of sickness, absence or disability of the claimant if such claim has been filed within four years of such deadline.

(d) In the case of all tax years commencing after December 31, 2012, the threshold income amounts prescribed in this section and section 14, and amendments thereto, and the amounts of refund of taxes and the amounts of the tax credit, both as prescribed in this section, shall be increased by an amount equal to such threshold amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) of the federal internal revenue code for the calendar year in which the taxable year

commences.

New Sec. 17. (a) In administering the food sales tax refund act, the division of taxation shall make available suitable forms with instructions for claimants. Copies of such forms shall also be made available to all county clerks and county treasurers in sufficient numbers to supply claimants residing in their respective counties. It shall be the duty of the county clerk to assist any claimant seeking assistance in the filing of a claim under the provisions of this act. The county treasurer of each county shall mail to each taxpayer with the property tax statement of such taxpayer information on the claiming of a refund of retailers' sales taxes paid upon food, which shall be provided by the secretary of revenue.

(b) The secretary of revenue is hereby authorized to adopt such rules and regulations as may be necessary for the administration of the provisions of this act.

New Sec. 18. Every claimant for the refund of taxes under the provisions of the food sales tax refund act shall supply to the division, in support of a claim, a valid social security number issued by the social security administration for each claimant, every household member and every dependent child, a clear statement as to whether such claimant qualifies for a refund under the provisions of section 14, and amendments thereto, reasonable proof of age or disability, and household income. A claim alleging disability shall be supported by a report of the examining physician of the claimant with a statement or certificate that the applicant has a disability within the meaning of section 14, and amendments thereto.

New Sec. 19. In any case in which it is determined that a claim was filed with fraudulent intent, the claim shall be disallowed, and, if the claim has been paid, the amount paid may be recovered by assessment as income taxes are assessed, and such assessment shall bear interest from the date of

payment of the claim, until recovered, at the rate prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto. The claimant in such case, and any person who assisted in the preparation or filing of such claim, or supplied information upon which such claim was prepared, with fraudulent intent, shall be guilty of a class B misdemeanor.

New Sec. 20. The director of taxation shall examine all claims for refund under the food sales tax refund act, and shall issue final determinations of such claims in the manner prescribed by K.S.A. 79-3226, and amendments thereto, relating to income taxes.";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "rates" by inserting a comma; in line 3, after "revenue;" by inserting "providing food sales tax refunds;"

Senator _____