

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.~~

0%

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:~~

Strike Lines
14-27

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

Strike Section 2

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%.

Strike

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 educational institution; and (4) nonprofit trusts, foundations and other
2 entities organized and operated for the primary purpose of encouraging,
3 fostering and conducting scholarly investigations and industrial and other
4 types of research for the support and sole benefit of an educational
5 institution.

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

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

"Food and food ingredients" includes prepared food.

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

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

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

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

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

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