

**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.

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 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 bottled water, candy, dietary supplements, food sold through vending machines and soft drinks.

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.