

## SENATE BILL No. 182

By Senators Hensley, Faust-Goudeau, Francisco, Haley, Hawk, Holland and Pettey

2-12

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1 AN ACT concerning taxation; providing food sales tax refunds; homestead  
2 property tax refunds for renters; amending K.S.A. 2012 Supp. 79-4501,  
3 79-4502, 79-4508, 79-4509, 79-4511 and 79-4522 and repealing the  
4 existing sections.  
5

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

7 New Section 1. The provisions of sections 1 through 8, K.S.A. 79-  
8 3632 and 79-3639a, and amendments thereto, shall be known and may be  
9 cited as the food sales tax refund act.

10 New Sec. 2. As used in the food sales tax refund act unless the  
11 context clearly indicates otherwise:

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

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

19 (c) "Claimant" means a person who has filed a claim for a refund or  
20 credit under the provisions of this act and was, during the entire calendar  
21 year preceding the year in which the claim was filed for relief under this  
22 act, domiciled in this state, was a member of a household, had income of  
23 not more than \$36,700 in the calendar year for which a claim is filed and  
24 was: (1) A person having a disability; (2) a person other than a person  
25 included under clause (1), who has attained 55 years of age in the calendar  
26 year for which a claim is filed; or (3) a person other than a person included  
27 under clause (1) or (2) having one or more dependent children under 18  
28 years of age residing at the person's homestead during the calendar year  
29 for which a claim is filed.

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

32 (e) "Disability" means: (1) Inability to engage in any substantial  
33 gainful activity by reason of any medically determinable physical or  
34 mental impairment which can be expected to result in death or has lasted  
35 or can be expected to last for a continuous period of not less than 12  
36 months, and an individual shall be determined to be under a disability only

1 if the physical or mental impairment or impairments are of such severity  
2 that the individual is not only unable to do the individual's previous work  
3 but cannot, considering age, education and work experience, engage in any  
4 other kind of substantial gainful work which exists in the national  
5 economy, regardless of whether such work exists in the immediate area in  
6 which the individual lives or whether a specific job vacancy exists for the  
7 individual, or whether the individual would be hired if application was  
8 made for work. For purposes of the preceding sentence, with respect to  
9 any individual, "work which exists in the national economy" means work  
10 which exists in significant numbers either in the region where the  
11 individual lives or in several regions of the country; for purposes of this  
12 subsection, a "physical or mental impairment" is an impairment that results  
13 from anatomical, physiological or psychological abnormalities which are  
14 demonstrable by medically acceptable clinical and laboratory diagnostic  
15 techniques; or

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

20 (f) "Blindness" means central visual acuity of  $^{20}/_{200}$  or less in the better  
21 eye with the use of a correcting lens. An eye which is accompanied by a  
22 limitation in the fields of vision such that the widest diameter of the visual  
23 field subtends an angle no greater than 20 degrees shall be considered for  
24 the purpose of this paragraph as having a central visual acuity of  $^{20}/_{200}$  or  
25 less.

26 New Sec. 3. The right to file a claim for a refund under the food sales  
27 tax refund act shall be personal to the claimant and shall not survive such  
28 claimant's death, but such right may be exercised on behalf of a claimant  
29 by such claimant's legal guardian, conservator or attorney-in-fact. When a  
30 claimant dies after having filed a timely claim, the amount of such claim  
31 shall be disbursed to another member of the household as determined by  
32 the director of taxation. If the claimant was the only member of such  
33 claimant's household, the claim may be paid to such claimant's executor or  
34 administrator, but if neither is appointed and qualified, the amount of the  
35 claim may be paid upon a claim duly made to any heir at law. In the  
36 absence of any such claim within two years of the filing of the claim, the  
37 amount of the claim shall escheat to the state.

38 New Sec. 4. (a) (1) A claimant shall be entitled to a refund of  
39 retailers' sales taxes paid upon food during the calendar year 2013 and  
40 each year thereafter in the amount hereinafter provided. There shall be  
41 allowed for each member of a household of a claimant having income of  
42 \$18,350 or less, an amount equal to \$94. There shall be allowed for each  
43 member of a household of a claimant having income of more than \$18,350

1 but not more than \$36,700, an amount equal to \$47. There shall be allowed  
2 for a claimant who qualifies for an additional personal exemption amount  
3 pursuant to K.S.A. 79-32,121, and amendments thereto, an additional  
4 amount of \$47 or \$94, as the case requires. All such claims shall be paid  
5 from the sales tax refund fund upon warrants of the director of accounts  
6 and reports pursuant to vouchers approved by the director of taxation or by  
7 a person or persons designated by the director.

8 (2) As an alternative to the procedure described by subsection (a)(1),  
9 for all taxable years commencing after December 31, 2012, there shall be  
10 allowed as a credit against the tax liability of a resident individual imposed  
11 under the Kansas income tax act an amount equal to \$47 or \$94, as the  
12 case requires, for each member of a household. There shall be allowed for  
13 a claimant who qualifies for an additional personal exemption amount  
14 pursuant to K.S.A. 79-32,121, and amendments thereto, an additional  
15 amount of \$47 or \$94, as the case requires. If the amount of such tax credit  
16 exceeds the claimant's income tax liability for such taxable year, such  
17 excess amount shall be refunded to the claimant.

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

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

31 (d) In the case of all tax years commencing after December 31, 2012,  
32 the threshold income amounts prescribed in this section and section 2, and  
33 amendments thereto, and the amounts of refund of taxes and the amounts  
34 of the tax credit, both as prescribed in this section, shall be increased by an  
35 amount equal to such threshold amount multiplied by the cost-of-living  
36 adjustment determined under section 1 (f)(3) of the federal internal  
37 revenue code for the calendar year in which the taxable year commences.

38 New Sec. 5. (a) In administering the food sales tax refund act, the  
39 division of taxation shall make available suitable forms with instructions  
40 for claimants. Copies of such forms shall also be made available to all  
41 county clerks and county treasurers in sufficient numbers to supply  
42 claimants residing in their respective counties. It shall be the duty of the  
43 county clerk to assist any claimant seeking assistance in the filing of a

1 claim under the provisions of this act. The county treasurer of each county  
2 shall mail to each taxpayer with the property tax statement of such  
3 taxpayer information on the claiming of a refund of retailers' sales taxes  
4 paid upon food, which shall be provided by the secretary of revenue.

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

8 New Sec. 6. Every claimant for the refund of taxes under the  
9 provisions of the food sales tax refund act shall supply to the division, in  
10 support of a claim, a valid social security number issued by the social  
11 security administration for each claimant, every household member and  
12 every dependent child, a clear statement as to whether such claimant  
13 qualifies for a refund under the provisions of section 2, and amendments  
14 thereto, reasonable proof of age or disability, and household income. A  
15 claim alleging disability shall be supported by a report of the examining  
16 physician of the claimant with a statement or certificate that the applicant  
17 has a disability within the meaning of section 2, and amendments thereto.

18 New Sec. 7. In any case in which it is determined that a claim was  
19 filed with fraudulent intent, the claim shall be disallowed, and, if the claim  
20 has been paid, the amount paid may be recovered by assessment as income  
21 taxes are assessed, and such assessment shall bear interest from the date of  
22 payment of the claim, until recovered, at the rate prescribed by subsection  
23 (a) of K.S.A. 79-2968, and amendments thereto. The claimant in such  
24 case, and any person who assisted in the preparation or filing of such  
25 claim, or supplied information upon which such claim was prepared, with  
26 fraudulent intent, shall be guilty of a class B misdemeanor.

27 New Sec. 8. The director of taxation shall examine all claims for  
28 refund under the food sales tax refund act, and shall issue final  
29 determinations of such claims in the manner prescribed by K.S.A. 79-  
30 3226, and amendments thereto, relating to income taxes.

31 Sec. 9. K.S.A. 2012 Supp. 79-4501 is hereby amended to read as  
32 follows: 79-4501. The title of this act shall be the homestead property tax  
33 refund act. The purpose of this act shall be to provide ad valorem tax  
34 refunds to: (a) Certain persons who are of qualifying age who own *or rent*  
35 their homestead; (b) certain persons who have a disability, who own *or*  
36 *rent* their homestead; and (c) certain persons other than persons included  
37 under the provisions of (a) or (b) who have low incomes and dependent  
38 children and own *or rent* their homestead.

39 Sec. 10. K.S.A. 2012 Supp. 79-4502 is hereby amended to read as  
40 follows: 79-4502. As used in this act, unless the context clearly indicates  
41 otherwise:

42 (a) "Income" means the sum of adjusted gross income under the  
43 Kansas income tax act, maintenance, support money, cash public

1 assistance and relief, not including any refund granted under this act, the  
2 gross amount of any pension or annuity, including all monetary retirement  
3 benefits from whatever source derived, including but not limited to, all  
4 payments received under the railroad retirement act, except disability  
5 payments, payments received under the federal social security act, except  
6 that for determination of what constitutes income such amount shall not  
7 exceed 50% of any such social security payments and shall not include any  
8 social security payments to a claimant who prior to attaining full  
9 retirement age had been receiving disability payments under the federal  
10 social security act in an amount not to exceed the amount of such disability  
11 payments or 50% of any such social security payments, whichever is  
12 greater, all dividends and interest from whatever source derived not  
13 included in adjusted gross income, workers compensation and the gross  
14 amount of "loss of time" insurance. Income does not include gifts from  
15 nongovernmental sources or surplus food or other relief in kind supplied  
16 by a governmental agency, nor shall net operating losses and net capital  
17 losses be considered in the determination of income. Income does not  
18 include veterans disability pensions. Income does not include disability  
19 payments received under the federal social security act.

20 (b) "Household" means a claimant, a claimant and spouse who  
21 occupy the homestead or a claimant and one or more individuals not  
22 related as husband and wife who together occupy a homestead.

23 (c) "Household income" means all income received by all persons of  
24 a household in a calendar year while members of such household.

25 (d) "Homestead" means the dwelling, or any part thereof, *whether*  
26 ~~owned and~~ *or rented, which is* occupied as a residence by the household  
27 and so much of the land surrounding it, as defined as a home site for ad  
28 valorem tax purposes, and may consist of a part of a multi-dwelling or  
29 multi-purpose building and a part of the land upon which it is built or a  
30 manufactured home or mobile home and the land upon which it is situated.  
31 "Owned" includes a vendee in possession under a land contract, a life  
32 tenant, a beneficiary under a trust and one or more joint tenants or tenants  
33 in common.

34 (e) "Claimant" means a person who has filed a claim under the  
35 provisions of this act and was, during the entire calendar year preceding  
36 the year in which such claim was filed for refund under this act, except as  
37 provided in K.S.A. 79-4503, and amendments thereto, both domiciled in  
38 this state and was: (1) A person having a disability; (2) a person who is 55  
39 years of age or older; (3) a disabled veteran; (4) the surviving spouse of  
40 active duty military personnel who died in the line of duty; or (5) a person  
41 other than a person included under (1), (2), (3) or (4) having one or more  
42 dependent children under 18 years of age residing at the person's  
43 homestead during the calendar year immediately preceding the year in

1 which a claim is filed under this act. The surviving spouse of a disabled  
2 veteran who was receiving benefits pursuant to subsection (e)(3) of this  
3 section at the time of the veterans' death, shall be eligible to continue to  
4 receive benefits until such time the surviving spouse remarries.

5 When a homestead is occupied by two or more individuals and more  
6 than one of the individuals is able to qualify as a claimant, the individuals  
7 may determine between them as to whom the claimant will be. If they are  
8 unable to agree, the matter shall be referred to the secretary of revenue  
9 whose decision shall be final.

10 (f) "Property taxes accrued" means property taxes, exclusive of  
11 special assessments, delinquent interest and charges for service, levied on  
12 a claimant's homestead in 1979 or any calendar year thereafter by the state  
13 of Kansas and the political and taxing subdivisions of the state. When a  
14 homestead is owned by two or more persons or entities as joint tenants or  
15 tenants in common and one or more of the persons or entities is not a  
16 member of claimant's household, "property taxes accrued" is that part of  
17 property taxes levied on the homestead that reflects the ownership  
18 percentage of the claimant's household. For purposes of this act, property  
19 taxes are "levied" when the tax roll is delivered to the local treasurer with  
20 the treasurer's warrant for collection. When a claimant and household own  
21 their homestead part of a calendar year, "property taxes accrued" means  
22 only taxes levied on the homestead when both owned and occupied as a  
23 homestead by the claimant's household at the time of the levy, multiplied  
24 by the percentage of 12 months that the property was owned and occupied  
25 by the household as its homestead in the year. When a household owns and  
26 occupies two or more different homesteads in the same calendar year,  
27 property taxes accrued shall be the sum of the taxes allocable to those  
28 several properties while occupied by the household as its homestead  
29 during the year. Whenever a homestead is an integral part of a larger unit  
30 such as a multi-purpose or multi-dwelling building, property taxes accrued  
31 shall be that percentage of the total property taxes accrued as the value of  
32 the homestead is of the total value. For the purpose of this act, the word  
33 "unit" refers to that parcel of property covered by a single tax statement of  
34 which the homestead is a part.

35 (g) "Disability" means:

36 (1) Inability to engage in any substantial gainful activity by reason of  
37 any medically determinable physical or mental impairment which can be  
38 expected to result in death or has lasted or can be expected to last for a  
39 continuous period of not less than 12 months, and an individual shall be  
40 determined to be under a disability only if the physical or mental  
41 impairment or impairments are of such severity that the individual is not  
42 only unable to do the individual's previous work but cannot, considering  
43 age, education and work experience, engage in any other kind of

1 substantial gainful work which exists in the national economy, regardless  
2 of whether such work exists in the immediate area in which the individual  
3 lives or whether a specific job vacancy exists for the individual, or whether  
4 the individual would be hired if application was made for work. *With*  
5 *respect to any individual*, for purposes of the preceding sentence ~~(with~~  
6 ~~respect to any individual)~~, "work which exists in the national economy"  
7 means work which exists in significant numbers either in the region where  
8 the individual lives or in several regions of the country. For purposes of  
9 this subsection, a "physical or mental impairment" is an impairment that  
10 results from anatomical, physiological or psychological abnormalities  
11 which are demonstrable by medically acceptable clinical and laboratory  
12 diagnostic techniques; or

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

17 (h) "Blindness" means central visual acuity of  $^{20}/_{200}$  or less in the  
18 better eye with the use of a correcting lens. An eye which is accompanied  
19 by a limitation in the fields of vision such that the widest diameter of the  
20 visual field subtends an angle no greater than 20 degrees shall be  
21 considered for the purpose of this paragraph as having a central visual  
22 acuity of  $^{20}/_{200}$  or less.

23 (i) "Disabled veteran" means a person who is a resident of Kansas  
24 and has been honorably discharged from active service in any branch of  
25 the armed forces of the United States or Kansas national guard and who  
26 has been certified by the United States department of veterans affairs or its  
27 successor to have a 50% permanent disability sustained through military  
28 action or accident or resulting from disease contracted while in such active  
29 service.

30 (j) "*Gross rent*" means the rental paid at arm's length solely for the  
31 right of occupancy of a homestead or space rental paid to a landlord for  
32 the parking of a mobile home, exclusive of charges for any utilities,  
33 services, furniture and furnishings or personal property appliances  
34 furnished by the landlord as a part of the rental agreement, whether or not  
35 expressly set out in the rental agreement. Whenever the director of  
36 taxation finds that the landlord and tenant have not dealt with each other  
37 at arm's length and that the gross rent charge was excessive, the director  
38 may adjust the gross rent to a reasonable amount for the purposes of the  
39 claim.

40 (k) "*Rent constituting property taxes accrued*" means 15% of the  
41 gross rent actually paid in cash or its equivalent in 2013 or any taxable  
42 year thereafter by a claimant and claimant's household solely for the right  
43 of occupancy of a Kansas homestead on which ad valorem property taxes

1 *were levied in full for that year. When a household occupies two or more*  
 2 *different homesteads in the same calendar year, rent constituting property*  
 3 *taxes accrued shall be computed by adding the rent constituting property*  
 4 *taxes accrued for each property rented by the household while occupied*  
 5 *by the household as its homestead during the year.*

6 Sec. 11. K.S.A. 2012 Supp. 79-4508 is hereby amended to read as  
 7 follows: 79-4508. (a) Commencing in the tax year beginning after  
 8 December 31, 2005, the amount of any claim pursuant to this act shall be  
 9 computed by deducting the amount computed under column (2) from the  
 10 amount of claimant's property tax accrued *or rent constituting property tax*  
 11 *accrued, or both.*

(1)		(2)
Claimants household income		Deduction from property tax accrued <i>or rent constituting property tax accrued, or both</i>
At least	But not more than	
\$0	\$6,000	\$0
6,001	7,000	4%
7,001	16,000	4% plus 4% of every \$1,000, or fraction thereof, of income in excess of \$7,001
16,001	27,000	40% plus 5% of every \$1,000, or fraction thereof, of income in excess of \$16,001
27,001	27,600	95%

28 (b) The director of taxation shall prepare a table under which claims  
 29 under this act shall be determined. The amount of claim for each bracket  
 30 shall be computed only to the nearest \$1.

31 (c) The claimant may elect not to record the amount claimed on the  
 32 claim. The claim allowable to persons making this election shall be  
 33 computed by the department which shall notify the claimant by mail of the  
 34 amount of the allowable claim.

35 (d) ~~In the case of all tax years commencing after December 31, 2004,~~  
 36 The upper limit threshold amount prescribed in this section, shall be  
 37 increased by an amount equal to such threshold amount multiplied by the  
 38 cost-of-living adjustment determined under section 1(f)(3) of the federal  
 39 internal revenue code for the calendar year in which the taxable year  
 40 commences.

41 Sec. 12. K.S.A. 2012 Supp. 79-4509 is hereby amended to read as  
 42 follows: 79-4509. In the event property taxes accrued *or rent constituting*  
 43 *property tax accrued, or the sum of both, exceeds \$700 for a household in*



1 any one year, the amount thereof shall, for purposes of this act, be deemed  
2 to have been \$700.

3 Sec. 13. K.S.A. 2012 Supp. 79-4511 is hereby amended to read as  
4 follows: 79-4511. (a) Every claimant under this act shall supply to the  
5 division, in support of a claim, reasonable proof of age or disability, and  
6 changes of homestead, household membership, household income, and  
7 size and nature of property claimed as the homestead. A claim alleging  
8 disability shall be supported by a report of the examining physician of the  
9 claimant with a statement or certificate that the applicant has a disability  
10 within the meaning of subsection (g) of K.S.A. 79-4502, and amendments  
11 thereto.

12 (b) Every claimant who is a homestead owner, or whose claim is  
13 based wholly or partly upon homestead ownership at some time during the  
14 calendar year, shall supply to the division, in support of a claim, the  
15 amount of property taxes levied upon the property claimed as a homestead  
16 and a statement that the property taxes accrued used for purposes of this  
17 act have been or will be paid by the claimant. Upon request by the  
18 division, such claimant shall provide a copy of the statement of property  
19 taxes levied upon the property claimed as a homestead. The amount of  
20 personal property taxes levied on a manufactured home or mobile home  
21 shall be set out on the personal property tax statement showing the amount  
22 of such tax as a separate item.

23 (c) *Every claimant who is a homestead renter, or whose claim is*  
24 *based wholly or partly upon homestead rental at some time during the*  
25 *calendar year, shall supply to the division, in support of a claim, a*  
26 *statement prescribed by the director certifying the amount of gross rent*  
27 *paid and that ad valorem property taxes were levied in full for that year on*  
28 *the property, all or a part of which was rented by the claimant. When such*  
29 *claimant reports household income that is 150% or less of the homestead*  
30 *rental amount and such claimant has failed to provide any documentation*  
31 *or information requested by the division to verify such household income*  
32 *in support of a claim as required pursuant to subsection (a), within 30*  
33 *days of such request, such homestead property tax refund claim shall be*  
34 *denied.*

35 (d) The information required to be furnished under subsection (b) or  
36 (c) shall be in addition to that required under subsection (a).

37 Sec. 14. K.S.A. 2012 Supp. 79-4522 is hereby amended to read as  
38 follows: 79-4522. A person owning or occupying a homestead *that is not*  
39 *rental property and* for which the appraised valuation for property tax  
40 purposes exceeds \$350,000 in any year shall not be entitled to claim a  
41 refund of property taxes under the homestead property tax refund act for  
42 any such year. The provisions of this section shall be part of and  
43 supplemental to the homestead property tax refund act.

1       Sec. 15. K.S.A. 2012 Supp. 79-4501, 79-4502, 79-4508, 79-4509, 79-  
2 4511 and 79-4522 are hereby repealed.

3       Sec. 16. This act shall take effect and be in force from and after its  
4 publication in the Kansas register.