AN ACT concerning taxation; relating to taxation of cigarettes, rate of tax, use of proceeds; establishing the medicaid expansion fund; amending K.S.A. 2017 Supp. 79-3310, 79-3310c, 79-3311, 79-3312 and 79-3387 and repealing the existing sections.

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

New Section 1. (a) There is hereby created in the state treasury the medicaid expansion fund. The department of health and environment shall expend moneys in the medicaid expansion fund only for purposes described in subsection (b). All expenditures from the medicaid expansion fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of health and environment or the secretary's designee.

(b) (1) Notwithstanding any provisions of K.S.A. 39-709, and amendments thereto, or any other provision of law to the contrary, for purposes of medical assistance eligibility determinations on and after the effective date of this section, medical assistance shall be granted to any adult under 65 years of age who is not pregnant and whose income does not exceed 138% of the federal poverty level, to the extent permitted under the patient protection and affordable care act, public law 111-148, 124 stat. 119, and the healthcare and education reconciliation act of 2010, public law 111-152, 124 stat. 1029, as such provisions exist on the effective date of this section. For recipients deemed newly eligible to receive medical assistance pursuant to this subsection, the department of health and environment shall impose no eligibility requirement that exceeds or differs from eligibility requirements imposed by the patient protection and affordable care act, public law 111-148, 124 stat. 119, and the healthcare and education reconciliation act of 2010, public law 111-152, 124 stat. 1029, as such provisions exist on the effective date of this section.

(2) The secretary of health and environment shall submit to the United States centers for medicare and medicaid services any state medicaid plan amendment, waiver request or other approval request necessary to implement this subsection.

Sec. 2. K.S.A. 2017 Supp. 79-3310 is hereby amended to read as follows: 79-3310. There is imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. On and after July 1,
2015, and before July 1, 2018, the rate of such tax shall be $1.29 on each 20 cigarettes or fractional part thereof or $1.61 on each 25 cigarettes, as the case requires. On and after July 1, 2018, the rate of such tax shall be $2.79 on each 20 cigarettes or fractional part thereof or $3.49 on each 25 cigarettes, as the case requires. Such tax shall be collected and paid to the director as provided in this act. Such tax shall be paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided.

The taxes imposed by this act are hereby levied upon all sales of cigarettes made to any department, institution or agency of the state of Kansas, and to the political subdivisions thereof and their departments, institutions and agencies.

Sec. 3. K.S.A. 2017 Supp. 79-3310c is hereby amended to read as follows: 79-3310c. On or before July 31, 2015, each wholesale dealer, retail dealer and vending machine operator shall file a report with the director in such form as the director may prescribe showing cigarettes, cigarette stamps and meter imprints on hand at 12:01 a.m. on July 1, 2015. A tax of $.50 or $.62 on each 20 cigarettes or fractional part thereof or $.62 or $.68 on each 25 cigarettes, as the case requires and $.50 or $.62, as the case requires upon all tax stamps and all meter imprints purchased from the director and not affixed to cigarettes prior to July 1, 2015, is hereby imposed and shall be due and payable on or before October 31, 2015. The tax imposed upon such cigarettes, tax stamps and meter imprints shall be imposed only once under this act. The director shall remit all moneys collected pursuant to this section to the state treasurer who shall credit the entire amount thereof to the state general fund.

Sec. 4. K.S.A. 2017 Supp. 79-3311 is hereby amended to read as follows: 79-3311. The director shall design and designate indicia of tax payment to be affixed to each package of cigarettes as provided by this act. Stamps applied by the heat process shall be sold only in amounts of 30,000 or multiples thereof, except that such stamps which are suitable for packages containing 25 cigarettes each shall be sold in amounts prescribed by the director. Stamps applied by the heat process shall be supplied to wholesale dealers in good standing with the director at the time of purchase at a discount of 0.25% on and after July 1, 2015, and thereafter, from the face value thereof, and shall be deducted at the time of purchase or from the remittance therefor as hereinafter provided. Any wholesale cigarette dealer who shall file with the director a bond, of acceptable form, payable to the state of Kansas with a corporate surety authorized to do business in Kansas, shall be permitted to purchase stamps, and remit therefor to the director within 30 days after each such purchase, up to a maximum outstanding at any one time of 85% of the amount of the
bond. Failure on the part of any wholesale dealer to remit as herein
specified shall be cause for forfeiture of such dealer's bond. All revenue
received from the sale of such stamps shall be remitted to the state
treasurer in accordance with the provisions of K.S.A. 75-4215, and
amendments thereto. Upon receipt of each such remittance, the state
treasurer shall deposit the entire amount in the state treasury. The state
treasurer shall first credit such amount as the director shall order to the
cigarette tax refund fund and shall credit the remaining balance to the state
general fund. A refund fund designated the cigarette tax refund fund not to
exceed $10,000 at any time shall be set apart and maintained by the
director from taxes collected under this act and held by the state treasurer
for prompt payment of all refunds authorized by this act. Such cigarette tax
refund fund shall be in such amount as the director shall determine is
necessary to meet current refunding requirements under this act.

The wholesale cigarette dealer shall affix to each package of cigarettes
stamps required by this act prior to the sale of cigarettes to any person, by
such dealer or such dealer's agent or agents, within the state of Kansas.
The director is empowered to authorize wholesale dealers to affix revenue
tax stamps upon original packages of cigarettes and is charged with the
duty of regulating the use of tax stamps to secure payment of the proper
taxes. No wholesale dealer shall affix revenue tax stamps to original
packages of cigarettes without first having obtained permission from the
director to employ this method of affixation. If the director approves the
wholesale dealer's application for permission to affix revenue tax stamps
to original packages of cigarettes, the director shall require such dealer to
file a suitable bond payable to the state of Kansas executed by a corporate
surety authorized to do business in Kansas. The director may, to assure the
proper collection of taxes imposed by the act, revoke or suspend the
privilege of affixing tax stamps upon original packages of cigarettes.

A licensed wholesale dealer may, for the purpose of sale in another
state, transport cigarettes not bearing Kansas indicia of tax payment
through the state of Kansas provided such cigarettes are contained in
sealed and original cartons.

Sec. 5. K.S.A. 2017 Supp. 79-3312 is hereby amended to read as
follows: 79-3312. The director shall redeem any unused stamps that any
wholesale dealer presents for redemption within six months after the
purchase thereof, at the face value less 0.55% 0.25% thereof if such
stamps have been purchased from the director and are whole, complete
stamps. The director shall prepare a voucher showing the net amount of
such refund due, and the director of accounts and reports shall draw a
warrant on the state treasurer for the same. Wholesale dealers shall be
entitled to a refund of the tax paid on cigarettes which have become unfit
for sale upon proof thereof less 0.55% 0.25% of such tax.
Sec. 6. K.S.A. 2017 Supp. 79-3387 is hereby amended to read as follows: 79-3387. (a) All revenue collected or received by the director from taxes imposed by this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(b) All moneys received from license fees, forfeiture proceeds under K.S.A. 79-3324a, and amendments thereto, and fines imposed by this act shall be collected by the director and shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the cigarette and tobacco products regulation fund created by K.S.A. 79-3391, and amendments thereto, and such proceeds shall be used exclusively for cigarette and tobacco products regulation and enforcement, and not for any other purpose.

(c) On and after July 1, 2018, the director shall certify monthly the amount of revenue collected or received due to the increased rate of tax imposed upon cigarettes that became law on July 1, 2018, to the director of accounts and reports, and shall transmit a copy of each such certification to the director of the budget and the director of legislative research. Upon receipt of each such certification, the director of accounts and reports shall transfer such amount from the state general fund to the medicaid expansion fund established by section 1, and amendments thereto.

Sec. 7. K.S.A. 2017 Supp. 79-3310, 79-3310c, 79-3311, 79-3312 and 79-3387 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.