As Amended by Senate Committee

As Amended by House Committee

Session of 2013

HOUSE BILL No. 2060

By Committee on Taxation

1-23

AN ACT concerning taxation; relating to food sales tax refunds and homestead property tax refunds; certain confined persons; earned income tax credit; amending K.S.A. 79-4505 and K.S.A. 2012 Supp. 79-32,205, 79-4502, 79-4508 and 79-4509 and repealing the existing sections.

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

Sec. 1. No claim for the refund of certain retailers' sales taxes paid upon food filed on or after June 30, 2011, shall be paid or allowed for any person confined in and claiming as a household any correctional facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments thereto, any juvenile correctional facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments thereto, any correctional facility of the federal bureau of prisons located in the state of Kansas, or any city or county jail facility in the state of Kansas.

Sec. 2. On July 1, 2103, K.S.A. 2012 Supp. 79-32,205 is hereby amended to read as follows: 79-32,205. (a) 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 18% for tax years 2010 through 2012, and an amount equal to 17% for tax year 2013, and all tax years thereafter, of the amount of the earned income credit allowed against such taxpayer's federal income tax liability pursuant to section 32 of the federal internal revenue code for the taxable year in which such credit was claimed against the taxpayer's federal income tax liability.

(b) If the amount of the credit allowed by subsection (a) exceeds the taxpayer's income tax liability imposed under the Kansas income tax act, such excess amount shall be refunded to the taxpayer.

Sec. 3. K.S.A. 2012 Supp. 79-4502 is hereby amended to read as follows: 79-4502. As used in this act, unless the context clearly indicates otherwise:

(a) "Income" means the sum of adjusted gross income under the Kansas income tax act, maintenance, support money, cash public assistance and relief, not including any refund granted under this act, the
gross amount of any pension or annuity, including all monetary retirement
benefits from whatever source derived, including but not limited to, all
payments received under the railroad retirement act, except disability
payments, payments received under the federal social security act, except
that for determination of what constitutes income such amount shall not
exceed 50% of any such social security payments and shall not include any
social security payments to a claimant who prior to attaining full
retirement age had been receiving disability payments under the federal
social security act in an amount not to exceed the amount of such disability
payments or 50% of any such social security payments, whichever is
greater, all dividends and interest from whatever source derived not
included in adjusted gross income, workers compensation and the gross
amount of "loss of time" insurance. Income does not include gifts from
nongovernmental sources or surplus food or other relief in kind supplied
by a governmental agency, nor shall net operating losses and net capital
losses be considered in the determination of income. Income does not
include veterans disability pensions. Income does not include disability
payments received under the federal social security act.

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

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

(d) "Homestead" means the dwelling, or any part thereof, owned and
occupied as a residence by the household and so much of the land
surrounding it, as defined as a home site for ad valorem tax purposes, and
may consist of a part of a multi-dwelling or multi-purpose building and a
part of the land upon which it is built or a manufactured home or mobile
home and the land upon which it is situated. "Owned" includes a vendee in
possession under a land contract, a life tenant, a beneficiary under a trust
and one or more joint tenants or tenants in common. For purposes of this
subsection, "homestead" shall not include any correctional facility, or
portion thereof, as defined in K.S.A. 75-5202, and amendments thereto,
any juvenile correctional facility, or portion thereof, as defined in K.S.A.
38-2302, and amendments thereto, any correctional facility of the federal
bureau of prisons located in the state of Kansas, or any city or county jail
facility in the state of Kansas.

(e) "Claimant" means a person who has filed a claim under the
provisions of this act and was, during the entire calendar year preceding
the year in which such claim was filed for refund under this act, except as
provided in K.S.A. 79-4503, and amendments thereto, both domiciled in
this state and was: (1) A person having a disability; (2) a person who is 55
years of age or older; (3) a disabled veteran; (4) the surviving spouse of
active duty military personnel who died in the line of duty; or (5) a person
other than a person included under (1), (2), (3) or (4) having one or more
dependent children under 18 years of age residing at the person's
homestead during the calendar year immediately preceding the year in
which a claim is filed under this act. The surviving spouse of a disabled
veteran who was receiving benefits pursuant to subsection (e)(3) of this
section at the time of the veterans' death, shall be eligible to continue to
receive benefits until such time the surviving spouse remarries.

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

For purposes of this subsection, "claimant" shall not include any
person confined in any correctional facility, or portion thereof, as defined
in K.S.A. 75-5202, and amendments thereto, any juvenile correctional
facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments
thereto, any correctional facility of the federal bureau of prisons located in
the state of Kansas, or any city or county jail facility in the state of
Kansas.

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

(g) "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.

(h) "Blindness" means central visual acuity of 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.

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

Sec. 4. K.S.A. 79-4505 is hereby amended to read as follows: 79-4505. Except as provided in K.S.A. 79-4517, and amendments thereto, no claim in respect of property taxes levied in any year 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 levied. No claim filed on or after June 30, 2011, in respect of property taxes levied in any year shall be paid or allowed for any person confined in and claiming as a homestead any correctional facility, or portion thereof, as defined in K.S.A. 75-5202, and amendments thereto, any juvenile correctional facility, or portion thereof, as defined in K.S.A. 38-2302, and amendments thereto, any correctional facility of the federal bureau of prisons located in the state of Kansas, or any city or county jail facility in the state of Kansas.

Sec. 5. On July 1, 2103, K.S.A. 2012 Supp. 79-4508 is hereby amended to read as follows: 79-4508. (a) Commencing in the tax year beginning after December 31, 2005, the amount of any claim pursuant to this act shall be computed by deducting the amount computed under column (2) from the amount of claimant's property tax accrued

<table>
<thead>
<tr>
<th>(1)</th>
<th>(2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Claimant’s household income</td>
<td>Deduction from property tax accruing</td>
</tr>
<tr>
<td>But not more than</td>
<td></td>
</tr>
<tr>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>$6,001</td>
<td>4% plus 4% of every $1,000, or fraction thereof, of income in excess of $6,001</td>
</tr>
<tr>
<td>$7,001</td>
<td>4% plus 4% of every $1,000, or fraction thereof, of income in excess of $7,001</td>
</tr>
<tr>
<td>$16,001</td>
<td>4% plus 5% of every $1,000, or fraction thereof, of income in excess of $16,001</td>
</tr>
<tr>
<td>$27,001</td>
<td>95% using the following table:</td>
</tr>
</tbody>
</table>

If the amount on line 10 Form K-40H is between: Enter this percent on line 14 of Form K-40H:

| $0 and $15,510 | 100% |
| $15,511 and $16,000 | 95% |
| $16,001 and $17,000 | 90% |
| $17,001 and $18,000 | 85% |
| $18,001 and $19,000 | 80% |
| $19,001 and $20,000 | 75% |
| $20,001 and $21,000 | 70% |
| $21,001 and $22,000 | 65% |
| $22,001 and $23,000 | 60% |
| $23,001 and $24,000 | 55% |
| $24,001 and $25,000 | 50% |
| $25,001 and $26,000 | 45% |
$26,001 and $27,000  40%
$27,001 and $28,000  35%
$28,001 and $29,000  30%
$29,001 and $30,000  25%
$30,001 and $31,000  20%
$31,001 and $32,000  15%
$32,001 and $33,000  10%
$33,001 and $34,400  5%
$34,401 and over  0%

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

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

(d) In the case of all tax years commencing after December 31, 2004, the upper limit thresholds amounts 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.

Sec. 6. On July 1, 2103, K.S.A. 2012 Supp. 79-4509 is hereby amended to read as follows: 79-4509. In the event property taxes accrued exceed $700 $1,200 for a household in any one year, the amount thereof shall, for purposes of this act, be deemed to have been $700 $1,200.

Sec. 7. K.S.A. 79-4505 and K.S.A. 2012 Supp. 79-4502 are hereby repealed.


Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.