

As Amended by House Committee

Session of 2006

SENATE BILL No. 359

By Committee on Assessment and Taxation

1-12

10 AN ACT concerning taxation; relating to refund funds; limitations; **ap-**
11 **peals of orders of the board of tax appeals**; amending K.S.A. 12-
12 1694a, 12-16,100, **74-2426**, 79-6a09, 79-3461 and 79-41a09 and
13 K.S.A. 2005 Supp. 79-15,113, 79-32,105, 79-3311, 79-3491a, 79-3620,
14 79-3710, 79-4227 and 79-4711 and repealing the existing sections.
15

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

17 Section 1. K.S.A. 12-1694a is hereby amended to read as follows: 12-
18 1694a. There is hereby established in the state treasury the “transient
19 guest tax refund fund” which shall be used for the payment of refunds of
20 the transient guest tax which is levied and collected pursuant to K.S.A.
21 12-1692 ~~to through~~ 12-1695, ~~inclusive~~, and amendments thereto. The
22 transient guest tax refund fund shall be held by the state treasurer for
23 prompt refunding of all transient guest tax overpayments. ~~Said~~ *Such* fund
24 shall be maintained by the secretary of revenue from the transient guest
25 tax collections in an amount determined by the secretary of revenue as
26 necessary to meet the current refunding requirements for the transient
27 guest tax under ~~said such~~ statutes ~~but such amount shall not exceed five~~
28 ~~thousand dollars (\$5,000)~~.

29 Sec. 2. K.S.A. 12-16,100 is hereby amended to read as follows: 12-
30 16,100. There is hereby established in the state treasury the “transient
31 guest tax refund fund” which shall be used for the payment of refunds of
32 the transient guest tax which is levied and collected pursuant to this act.
33 The transient guest tax refund fund shall be held by the state treasurer
34 for prompt refunding of all transient guest tax overpayments. ~~Said~~ *Such*
35 fund shall be maintained by the secretary of revenue from the transient
36 guest tax collections in an amount determined by the secretary of revenue
37 as necessary to meet the current refunding requirements for the transient
38 guest tax under this act ~~but such amount shall not exceed five thousand~~
39 ~~dollars (\$5,000)~~.

40 Sec. 3. K.S.A. 79-6a09 is hereby amended to read as follows: 79-
41 6a09. A revolving fund designated as the motor carrier tax refund fund
42 ~~not to exceed five thousand dollars (\$5,000)~~ shall be set apart and main-
43 tained by the director of property valuation from the motor carrier tax

1 collected under the provisions of the act, and held by the state treasurer
2 for the payment of all refunds authorized by the director of property
3 valuation to be made.

4 Sec. 4. K.S.A. 2005 Supp. 79-15,113 is hereby amended to read as
5 follows: 79-15,113. A refund clearing fund, designated estate tax abate-
6 ment refund, ~~not to exceed \$50,000~~ shall be set apart and maintained by
7 the director of taxation from estate tax collections and held by the state
8 treasurer for the prompt payment of all abatements and refunds. If the
9 director of taxation finds that a claim for refund duly filed by a personal
10 representative should be allowed, or if a court upon a final judgment shall
11 find that the estate tax, penalty or interest paid by a personal represen-
12 tative is in excess of the amount legally due, then the director of taxation
13 shall issue the director's vouchers to the director of accounts and reports
14 for the refund to the personal representative of such tax, penalty or in-
15 terest together with interest provided for hereinafter. Upon receipt of
16 such voucher properly executed and endorsed, the director of accounts
17 and reports shall issue the director's warrants to the state treasurer for
18 the payment to the personal representative out of the estate tax abatement
19 refund fund. The director of taxation shall file a duplicate of such voucher
20 and also a statement which shall set forth the reasons why such abatement
21 or refund was allowed. Upon the allowance of an abatement or refund of
22 any tax or interest paid, interest shall be allowed and paid on the amount
23 of such abatement or refund at the rate prescribed and determined pur-
24 suant to K.S.A. 79-2968, and amendments thereto, from the date such
25 tax, penalty or interest was paid to the date the refund or abatement of
26 estate taxes is made.

27 Sec. 5. K.S.A. 2005 Supp. 79-32,105 is hereby amended to read as
28 follows: 79-32,105. (a) The director shall remit the entire amount col-
29 lected under the provisions of this act and from the income tax imposed
30 upon individuals, corporations, estates or trusts pursuant to the "Kansas
31 income tax act" less amounts withheld as provided in subsection (b) and
32 any amounts credited to the IMPACT program repayment fund or the
33 IMPACT program services fund under K.S.A. 74-50,107, and amend-
34 ments thereto, to the state treasurer in accordance with the provisions of
35 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
36 remittance, the state treasurer shall deposit the entire amount in the state
37 treasury to the credit of the state general fund.

38 (b) A revolving fund, designated as "income tax refund fund" ~~not to~~
39 ~~exceed \$4,000,000~~ shall be set apart and maintained by the director from
40 income tax collections, franchise tax collections, withholding tax collec-
41 tions, and estimated tax collections and held by the state treasurer for
42 prompt payment of all income tax refunds and franchise tax refunds, for
43 the payment of interest as provided in subsection (e), for payment of

1 homestead property tax refunds in accordance with the homestead prop-
2 erty tax refund act and for payment of property tax refunds allowed pur-
3 suant to the provisions of K.S.A. 2005 Supp. 79-255, and amendments
4 thereto. The fund shall be in such amount, within the limit set by this
5 section, as the director determines is necessary to meet current refunding
6 requirements under this act.

7 (c) If the director discovers from the examination of the return, or
8 upon claim duly filed by the taxpayer or upon final judgment of the court
9 that the income tax, withholding tax, declaration of estimated tax or any
10 penalty or interest paid by or credited to any taxpayer is in excess of the
11 amount legally due for such tax or any other tax owed the state of Kansas,
12 the director shall certify to the director of accounts and reports the name
13 of the taxpayer, the amount of refund and such other information as the
14 director may require. Upon receipt of such certification the director of
15 accounts and reports shall issue a warrant on the state treasurer for the
16 payment to the taxpayer out of the fund provided in subsection (b), except
17 that no refund shall be made for a sum less than \$5, but such amount
18 may be claimed by the taxpayer as a credit against the taxpayer's tax
19 liability in the taxpayer's next succeeding taxable year.

20 (d) When a resident taxpayer dies, and the director determines that
21 a refund is due the claimant not in excess of \$100, the director shall certify
22 to the director of accounts and reports the name and address of the
23 claimant entitled to the refund and the amount of the refund. A refund
24 may be made upon a claim duly made on behalf of the estate of the
25 deceased or in the absence of any such claim upon a claim by a surviving
26 spouse and if none upon the claim by any heir at law. Upon receipt of
27 such certification the director of accounts and reports shall issue a warrant
28 on the state treasurer for the payment to the claimant out of the fund
29 provided in subsection (b).

30 (e) Interest shall be allowed and paid at the rate of 12% per annum
31 upon any overpayment of the income tax imposed upon individuals, cor-
32 porations, estates or trusts pursuant to the Kansas income tax act for any
33 period prior to January 1, 1995, 6% per annum for the period commencing
34 on January 1, 1995, and ending on December 31, 1997, and at the
35 rate prescribed and determined pursuant to K.S.A. 79-2968, and amend-
36 ments thereto, for any period thereafter.

37 For the purposes of this subsection:

38 (1) Any return filed before the last day prescribed for the filing
39 thereof shall be considered as filed on such last day, determined without
40 regard to any extension of time granted the taxpayer;

41 (2) any tax paid by the taxpayer before the last day prescribed for its
42 payment, any income tax withheld from the taxpayer during any calendar
43 year and any amount paid by the taxpayer as estimated income tax for a

1 taxable year shall be deemed to have been paid on the last day prescribed
2 for filing the return for the taxable year to which such amount constitutes
3 a credit or payment, determined without regard to any extension of time
4 granted the taxpayer;

5 (3) if any overpayment of tax results from a carryback of a net oper-
6 ating loss or net capital loss, such overpayment shall be deemed not to
7 have been made prior to the close of the taxable year in which such net
8 operating loss or net capital loss arises. For purposes of this paragraph,
9 the return for the loss year shall not be deemed to be filed before claim
10 for such overpayment is filed;

11 (4) in the case of a credit, interest shall be allowed and paid from the
12 date of the overpayment to the due date of the amount against which the
13 credit is taken, except that if any overpayment of income tax is claimed
14 as a credit against estimated tax for the succeeding taxable year, such
15 amount shall be considered as a payment of the income tax for the suc-
16 ceeding taxable year, whether or not claimed as a credit in the return of
17 estimated tax for such succeeding taxable year, and no interest shall be
18 allowed or paid in such overpayment for the taxable year in which the
19 overpayment arises;

20 (5) in the case of a tax return which is filed after the last date pre-
21 scribed for filing such return, determined with regard to extensions, no
22 interest shall be allowed or paid for any period before the date on which
23 the return is filed;

24 (6) in the case of a refund, interest shall be allowed and paid from
25 the date of the overpayment to a date preceding the date of the refund
26 check by not more than 30 days, as determined by the director, whether
27 or not such refund check is accepted by the taxpayer after tender of such
28 check to the taxpayer, but acceptance of such check shall be without
29 prejudice to any right of the taxpayer to claim any additional overpayment
30 and interest thereon; and

31 (7) if any overpayment is refunded within two months after the last
32 date prescribed, or permitted by extension of time, for filing the return
33 of such tax, or within two months after the return was filed, whichever is
34 later, no interest shall be allowed or paid. For the purposes of this section,
35 an overpayment shall be deemed to have been refunded at the time the
36 refund check in the amount of the overpayment, plus any interest due
37 thereon, is deposited in the United States mail.

38 Sec. 6. K.S.A. 2005 Supp. 79-3311 is hereby amended to read as
39 follows: 79-3311. (a) The director shall design and designate indicia of
40 tax payment to be affixed to each package of cigarettes as provided by
41 this act. The director shall sell water applied stamps only to licensed
42 wholesale dealers in the amounts of 1,000 or multiples thereof. Stamps
43 applied by the heat process shall be sold only in amounts of 30,000 or

1 multiples thereof, except that such stamps which are suitable for packages
2 containing 25 cigarettes each shall be sold in amounts prescribed by the
3 director. Meter imprints shall be sold only in amounts of 10,000 or mul-
4 tiple thereof. Water applied stamps in amounts of 10,000 or multiples
5 thereof and stamps applied by the heat process and meter imprints shall
6 be supplied to wholesale dealers at a discount of .90% on and after July
7 1, 2002, and before January 1, 2003, and .80% thereafter from the face
8 value thereof, and shall be deducted at the time of purchase or from the
9 remittance therefor as hereinafter provided. Any wholesale cigarette
10 dealer who shall file with the director a bond, of acceptable form, payable
11 to the state of Kansas with a corporate surety authorized to do business
12 in Kansas, shall be permitted to purchase stamps, and remit therefor to
13 the director within 30 days after each such purchase, up to a maximum
14 outstanding at any one time of 85% of the amount of the bond. Failure
15 on the part of any wholesale dealer to remit as herein specified shall be
16 cause for forfeiture of such dealer's bond. All revenue received from the
17 sale of such stamps or meter imprints shall be remitted to the state trea-
18 surer in accordance with the provisions of K.S.A. 75-4215, and amend-
19 ments thereto. Upon receipt of each such remittance, the state treasurer
20 shall deposit the entire amount in the state treasury. The state treasurer
21 shall first credit such amount as the director shall order to the cigarette
22 tax refund fund and shall credit the remaining balance to the state general
23 fund. A refund fund designated the cigarette tax refund fund ~~not to ex-~~
24 ~~ceed \$10,000 at any time~~ shall be set apart and maintained by the director
25 from taxes collected under this act and held by the state treasurer for
26 prompt payment of all refunds authorized by this act. Such cigarette tax
27 refund fund shall be in such amount as the director shall determine is
28 necessary to meet current refunding requirements under this act.

29 (b) The wholesale cigarette dealer shall affix to each package of cig-
30 arettes stamps or tax meter imprints required by this act prior to the sale
31 of cigarettes to any person, by such dealer or such dealer's agent or agents,
32 within the state of Kansas. The director is empowered to authorize whole-
33 sale dealers to affix revenue tax meter imprints upon original packages of
34 cigarettes and is charged with the duty of regulating the use of tax meters
35 to secure payment of the proper taxes. No wholesale dealer shall affix
36 revenue tax meter imprints to original packages of cigarettes without first
37 having obtained permission from the director to employ this method of
38 affixation. If the director approves the wholesale dealer's application for
39 permission to affix revenue tax meter imprints to original packages of
40 cigarettes, the director shall require such dealer to file a suitable bond
41 payable to the state of Kansas executed by a corporate surety authorized
42 to do business in Kansas. The director may, to assure the proper collection
43 of taxes imposed by the act, revoke or suspend the privilege of imprinting

1 tax meter imprints upon original packages of cigarettes. All meters shall
2 be under the direct control of the director, and all transfer assignments
3 or anything pertaining thereto must first be authorized by the director.
4 All inks used in the stamping of cigarettes must be of a special type
5 devised for use in connection with the machine employed and approved
6 by the director. All repairs to the meter are strictly prohibited except by
7 a duly authorized representative of the director. Requests for service shall
8 be directed to the director. Meter machine ink imprints on all packages
9 shall be clear and legible. If a wholesale dealer continuously issues illeg-
10 ible cigarette tax meter imprints, it shall be considered sufficient cause
11 for revocation of such dealer's permit to use a cigarette tax meter.

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

16 Sec. 7. K.S.A. 79-3461 is hereby amended to read as follows: 79-
17 3461. A revolving fund designated as the motor-vehicle fuel tax refund
18 fund ~~not to exceed one million dollars (\$1,000,000)~~ shall be set apart and
19 maintained by the director from the motor-vehicle fuel tax collected under
20 the provisions of article 34 of chapter 79 of the ~~General Statutes of~~
21 ~~1935 and the 1947 Supplement thereto and acts amendatory thereof or~~
22 ~~supplemental thereto~~ *Kansas Statutes Annotated, and amendments*
23 *thereto*, and held by the state treasurer for the payment of all refunds
24 authorized by this act.

25 Sec. 8. K.S.A. 2005 Supp. 79-3491a is hereby amended to read as
26 follows: 79-3491a. (a) A tax is hereby imposed on all LP-gas motor fuels
27 owned at 12:01 a.m. July 1, 1999, and on July 1 of each year thereafter,
28 by any LP-gas motor fuels user or LP-gas motor fuels dealer at a rate per
29 gallon, or fraction thereof, equal to the amount, if any, by which the tax
30 per gallon, or fraction thereof, in effect on such date as prescribed by
31 K.S.A. 79-3492, and amendments thereto, exceeds the rate of tax per
32 gallon actually paid upon such fuel. Such tax shall be paid by the LP-gas
33 motor fuel user or LP-gas motor fuel dealer owning such LP-gas motor
34 fuels at such time and date. On or before the 25th day of the month in
35 which such tax is imposed under this section, every such LP-gas motor
36 fuel user and LP-gas motor fuel dealer shall make a report to the director
37 on a form prescribed and furnished by the director showing the total
38 number of gallons, or fraction thereof, of such LP-gas motor fuels owned
39 by the user or dealer at the time the tax is imposed under this section,
40 and such report shall be accompanied by a remittance of the tax due.

41 Any LP-gas motor fuels user or LP-gas motor fuels dealer who shall
42 fail to make such report or pay such tax, within the time prescribed, shall
43 be subject to the same penalties and interest charges prescribed by the

1 liquefied petroleum motor fuel tax law for failure of a licensed distributor
2 to make monthly reports and payments of LP-gas motor fuel tax. The
3 provisions of the liquefied petroleum motor fuel tax law relating to rem-
4 edies for the collection of delinquent LP-motor fuel taxes from distrib-
5 utors shall apply to the collection of taxes imposed by this section which
6 have become delinquent from LP-gas motor fuels users and LP-gas motor
7 fuels dealers. All taxes, penalties and interest collected by the director
8 under the tax imposed by this section shall be remitted by the director
9 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,
10 and amendments thereto. Upon receipt of each such remittance, the state
11 treasurer shall deposit the entire amount in the state treasury to the credit
12 of the funds and in the amounts specified in K.S.A. 79-34,142, and
13 amendments thereto.

14 The words and phrases used in this section shall have the meanings
15 ascribed to them in K.S.A. 79-3490, and amendments thereto.

16 (b) Whenever the rate of tax upon LP-gas motor fuels fixed pursuant
17 to K.S.A. 79-3492, and amendments thereto, which becomes effective on
18 July 1, 1999, or on July 1 in any year thereafter, is less than the rate of
19 tax upon such fuels in effect on the preceding day, the user or dealer
20 owning such fuels at 12:01 a.m. on the date such reduction in taxes be-
21 comes effective shall be entitled to a refund of taxes paid upon such fuels
22 in an amount equal to the amount by which taxes were reduced from the
23 amount of tax per gallon, or fraction thereof, actually paid upon each
24 gallon, or fraction thereof, of LP-gas motor fuels multiplied by the num-
25 ber of gallons of fuel owned by the user or dealer on such date. On or
26 before the 25th day of the month in which such tax is reduced, every
27 such user or dealer shall make a report to the director on a form pre-
28 scribed and furnished by the director showing the total number of gallons
29 of such LP-gas motor fuels owned by such user or dealer at 12:01 a.m.
30 on the date upon which such tax was reduced. It shall be the duty of the
31 director of taxation to examine all such claims and determine the amount
32 to which any claimant is entitled. In the event any user or dealer entitled
33 to such refund shall owe the state any LP-gas motor fuels tax, penalties
34 or interest, the refund authorized by this section shall upon being deter-
35 mined by the director be credited upon the amount of such taxes, pen-
36 alties and interest. Whenever the director shall determine that any user
37 or dealer shall be entitled to a refund under any of the provisions of this
38 section, and such refund cannot be effected by giving credit therefor, as
39 hereinbefore provided, or against the future LP-gas motor fuel tax liability
40 of such taxpayer the director shall certify the amount of the refund to the
41 state director of accounts and reports, who shall draw a warrant for the
42 amount so certified on the state treasurer in favor of the user or dealer
43 entitled to such refund, and mail, or otherwise deliver, the same to the

1 user or dealer entitled thereto. Such warrant shall be paid by the state
2 treasurer to such user or dealer from the LP-gas motor fuels tax refund
3 fund which is hereby established in the state treasury.

4 (c) A fund designated as the LP-gas motor fuels tax refund fund ~~not~~
5 ~~to exceed \$1,000,000~~ shall be set apart and maintained by the director of
6 taxation from the LP-gas motor fuels tax collected under the provisions
7 of article 34 of chapter 79 of Kansas Statutes Annotated, and amendments
8 thereto, and held by the state treasurer for the payment of all refunds
9 authorized by this section.

10 Sec. 9. K.S.A. 2005 Supp. 79-3620 is hereby amended to read as
11 follows: 79-3620. (a) All revenue collected or received by the director of
12 taxation from the taxes imposed by this act shall be remitted to the state
13 treasurer in accordance with the provisions of K.S.A. 75-4215, and
14 amendments thereto. Upon receipt of each such remittance, the state
15 treasurer shall deposit the entire amount in the state treasury, less
16 amounts withheld as provided in subsection (b) and amounts credited as
17 provided in subsection (c) and (d), to the credit of the state general fund.

18 (b) A refund fund, designated as “sales tax refund fund” ~~not to exceed~~
19 ~~\$100,000~~ shall be set apart and maintained by the director from sales tax
20 collections and estimated tax collections and held by the state treasurer
21 for prompt payment of all sales tax refunds including refunds authorized
22 under the provisions of K.S.A. 79-3635, and amendments thereto. Such
23 fund shall be in such amount, within the limit set by this section, as the
24 director shall determine is necessary to meet current refunding require-
25 ments under this act. In the event such fund as established by this section
26 is, at any time, insufficient to provide for the payment of refunds due
27 claimants thereof, the director shall certify the amount of additional funds
28 required to the director of accounts and reports who shall promptly trans-
29 fer the required amount from the state general fund to the sales tax refund
30 fund, and notify the state treasurer, who shall make proper entry in the
31 records.

32 (c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected
33 or received from the tax imposed by K.S.A. 79-3603, and amendments
34 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),
35 exclusive of amounts credited pursuant to subsection (d), in the state
36 highway fund.

37 (2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or
38 received from the tax imposed by K.S.A. 79-3603, and amendments
39 thereto, at the rate of 5.3%, and deposited as provided in subsection (a),
40 exclusive of amounts credited pursuant to subsection (d), in the state
41 highway fund.

42 (3) On July 1, 2006, the state treasurer shall credit $\frac{19}{265}$ of the rev-
43 enue collected and received from the tax imposed by K.S.A. 79-3603, and

1 amendments thereto, at the rate of 5.3%, and deposited as provided by
2 subsection (a), exclusive of amounts credited pursuant to subsection (d),
3 in the state highway fund.

4 (4) On July 1, 2007, the state treasurer shall credit $\frac{13}{106}$ of the rev-
5 enue collected and received from the tax imposed by K.S.A. 79-3603, and
6 amendments thereto, at the rate of 5.3%, and deposited as provided by
7 subsection (a), exclusive of amounts credited pursuant to subsection (d),
8 in the state highway fund.

9 (d) The state treasurer shall credit all revenue collected or received
10 from the tax imposed by K.S.A. 79-3603, and amendments thereto, as
11 certified by the director, from taxpayers doing business within that por-
12 tion of a redevelopment district occupied by a redevelopment project or
13 taxpayers doing business with such entity financed by a special bond pro-
14 ject as defined in K.S.A. 12-1770a, and amendments thereto, that was
15 determined by the secretary of commerce to be of statewide as well as
16 local importance or will create a major tourism area for the state or the
17 project was designated as a special bond project as defined in K.S.A. 12-
18 1770a, and amendments thereto, to the city bond finance fund, which
19 fund is hereby created. The provisions of this subsection shall expire when
20 the total of all amounts credited hereunder and under subsection (d) of
21 K.S.A. 79-3710, and amendments thereto, is sufficient to retire the special
22 obligation bonds issued for the purpose of financing all or a portion of
23 the costs of such redevelopment or special bond project.

24 Sec. 10. K.S.A. 2005 Supp. 79-3710 is hereby amended to read as
25 follows: 79-3710. (a) All revenue collected or received by the director
26 under the provisions of this act shall be remitted to the state treasurer in
27 accordance with the provisions of K.S.A. 75-4215, and amendments
28 thereto. Upon receipt of each such remittance, the state treasurer shall
29 deposit the entire amount in the state treasury, less amounts set apart as
30 provided in subsection (b) and amounts credited as provided in subsection
31 (c) and (d), to the credit of the state general fund.

32 (b) A revolving fund, designated as “compensating tax refund fund”
33 ~~not to exceed \$10,000~~ shall be set apart and maintained by the director
34 from compensating tax collections and estimated tax collections and held
35 by the state treasurer for prompt payment of all compensating tax refunds.
36 Such fund shall be in such amount, within the limit set by this section,
37 as the director shall determine is necessary to meet current refunding
38 requirements under this act.

39 (c) (1) The state treasurer shall credit $\frac{5}{98}$ of the revenue collected
40 or received from the tax imposed by K.S.A. 79-3703, and amendments
41 thereto, at the rate of 4.9%, and deposited as provided in subsection (a),
42 exclusive of amounts credited pursuant to subsection (d), in the state
43 highway fund.

1 (2) The state treasurer shall credit $\frac{5}{106}$ of the revenue collected or
2 received from the tax imposed by K.S.A. 79-3703, and amendments
3 thereto, at the rate of 5.3%, and deposited as provided in subsection (a),
4 exclusive of amounts credited pursuant to subsection (d), in the state
5 highway fund.

6 (3) On July 1, 2006, the state treasurer shall credit $\frac{19}{265}$ of the rev-
7 enue collected or received from the tax imposed by K.S.A. 79-3703, and
8 amendments thereto, at the rate of 5.3%, and deposited as provided by
9 subsection (a), exclusive of amounts credited pursuant to subsection (d),
10 in the state highway fund.

11 (4) On July 1, 2007, the state treasurer shall credit $\frac{13}{106}$ of the rev-
12 enue collected or received from the tax imposed by K.S.A. 79-3703, and
13 amendments thereto, at the rate of 5.3%, and deposited as provided by
14 subsection (a), exclusive of amounts credited pursuant to subsection (d),
15 in the state highway fund.

16 (d) The state treasurer shall credit all revenue collected or received
17 from the tax imposed by K.S.A. 79-3703, and amendments thereto, as
18 certified by the director, from taxpayers doing business within that por-
19 tion of a redevelopment district occupied by a redevelopment project that
20 was determined by the secretary of commerce to be of statewide as well
21 as local importance or will create a major tourism area for the state as
22 defined in K.S.A. 12-1770a, and amendments thereto, to the city bond
23 finance fund created by subsection (d) of K.S.A. 79-3620, and amend-
24 ments thereto. The provisions of this subsection shall expire when the
25 total of all amounts credited hereunder and under subsection (d) of K.S.A.
26 79-3620, and amendments thereto, is sufficient to retire the special ob-
27 ligation bonds issued for the purpose of financing all or a portion of the
28 costs of such redevelopment project.

29 This subsection shall not apply to a project designated as a special bond
30 project as defined in subsection (z) of K.S.A. 12-1770a, and amendments
31 thereto.

32 Sec. 11. K.S.A. 79-41a09 is hereby amended to read as follows: 79-
33 41a09. There is hereby established in the state treasury the local alcoholic
34 liquor refund fund. The local alcoholic liquor refund fund shall be held
35 by the state treasurer for prompt refunding of all overpayments of the
36 tax levied and collected pursuant to article 41a of chapter 79 of the Kansas
37 statutes annotated. The local alcoholic liquor refund fund shall be main-
38 tained in an amount determined by the secretary of revenue as necessary
39 to meet current refunding requirements, ~~but such amount shall not ex-~~
40 ~~ceed \$10,000.~~

41 Sec. 12. K.S.A. 2005 Supp. 79-4227 is hereby amended to read as
42 follows: 79-4227. (a) All revenue collected or received by the director
43 from the tax imposed by this act shall be remitted to the state treasurer

1 in accordance with the provisions of K.S.A. 75-4215, and amendments
2 thereto. Upon receipt of each such remittance, the state treasurer shall
3 deposit the entire amount in the state treasury. The state treasurer shall
4 first credit such amount as the director shall order to the mineral pro-
5 duction tax refund fund created under subsection (b) of this section. Ex-
6 cept as otherwise provided by this section, the state treasurer shall credit
7 the remainder of such amounts as follows: (1) Seven percent to the special
8 county mineral production tax fund created under subsection (c) of this
9 section; and (2) the remainder shall be credited to the state general fund.
10 On and after July 1, 2008, and thereafter, the state treasurer shall credit
11 the remainder of such amounts for oil and gas for any county which in
12 fiscal year 2005 or any fiscal year thereafter had \$100,000 or more in
13 receipts of the excise tax upon the severance and production of oil and
14 gas as follows: (1) Seven percent to the special county mineral production
15 tax fund created under subsection (c); (2) 4.96% from July 1, 2008,
16 through June 30, 2009, to the oil and gas valuation depletion trust fund;
17 7.44% from July 1, 2009, through June 30, 2010, to the oil and gas val-
18 uation depletion trust fund; 9.93% from July 1, 2010, to June 30, 2011,
19 to the oil and gas valuation depletion trust fund; and 12.41% from July
20 1, 2011, and thereafter, to the oil and gas valuation depletion trust fund;
21 and (3) the remainder shall be credited to the state general fund.

22 (b) A refund fund designated as “mineral production tax refund fund”
23 ~~not to exceed \$50,000~~ is hereby created for the prompt payment of all
24 tax refunds. The mineral production tax refund fund shall be in such
25 amount, within the limit set by this section, as the director shall determine
26 is necessary to meet current refunding requirements under this act.

27 (c) There is hereby created a special county mineral production tax
28 fund. On December 1, 1983, and quarterly thereafter, the director of
29 taxation shall distribute all moneys credited to such fund to the county
30 treasurers of all counties in which taxes were levied under K.S.A. 79-
31 4217, and amendments thereto, for the severing and producing of coal,
32 oil or gas from property within the county, in the proportion that the taxes
33 levied upon production in each county bears to the total of all of such
34 taxes levied in all of such counties. Such distribution shall be based on
35 returns filed, with any adjustments or corrections thereto made by the
36 director of taxation.

37 (d) The secretary of revenue shall make provision for the determi-
38 nation of the counties within which taxes are levied under K.S.A. 79-4217,
39 and amendments thereto, for the severance of coal, oil or gas and shall
40 certify the same to the director of accounts and reports.

41 (e) The director of accounts and reports shall draw warrants on the
42 state treasurer payable to the county treasurer of each county entitled to
43 payment from the special county mineral production tax fund upon

1 vouchers approved by the director of taxation. Upon receipt of such war-
2 rant, each county treasurer shall credit 50% of the amount thereof to the
3 county general fund and shall distribute the remaining 50% thereof to
4 the treasurer of each school district all or any portion of which is located
5 within the county in the proportion that the assessed value of coal, oil
6 and gas properties within each district bears to the total of the assessed
7 value of all coal, oil and gas properties within the county. Such assessed
8 valuation shall be determined upon the basis of the most recent Novem-
9 ber 1 tax roll. The treasurer of each school district shall credit the entire
10 amount of the moneys so received to the general fund of the school
11 district.

12 Sec. 13. K.S.A. 2005 Supp. 79-4711 is hereby amended to read as
13 follows: 79-4711. There is hereby created the bingo refund fund in the
14 state treasury. The bingo refund fund shall be a refund clearing fund and
15 refunds of the fees imposed under K.S.A. 79-4703, and amendments
16 thereto, and of the tax levied under K.S.A. 79-4704, and amendments
17 thereto, shall be made from such fund. The bingo refund fund shall be
18 maintained by the administrator from the license and registration fees
19 received and taxes collected under the bingo act in an amount sufficient
20 for such refunds ~~not to exceed \$10,000.~~

21 **Sec. 14. K.S.A. 74-2426 is hereby amended to read as follows:**
22 **74-2426. (a) Orders of the board of tax appeals on any appeal, in**
23 **any proceeding under the tax protest, tax grievance or tax exemp-**
24 **tion statutes or in any other original proceeding before the board**
25 **shall be rendered and served in accordance with the provisions of**
26 **the Kansas administrative procedure act. Notwithstanding the pro-**
27 **visions of subsection (g) of K.S.A. 77-526 and amendments thereto,**
28 **a final order of the board shall be rendered in writing and served**
29 **within 120 days after the matter was fully submitted to the board**
30 **unless this period is waived or extended with the written consent**
31 **of all parties or for good cause shown.**

32 **(b) No final order of the board shall be subject to review pur-**
33 **suant to subsection (c) unless the aggrieved party first files a pe-**
34 **tition for reconsideration of that order with the board in accord-**
35 **ance with the provisions of K.S.A. 77-529 and amendments thereto.**

36 **(c) Any action of the board pursuant to this section is subject**
37 **to review in accordance with the act for judicial review and civil**
38 **enforcement of agency actions, except that:**

39 **(1) The parties to the action for judicial review shall be the**
40 **same parties as appeared before the board in the administrative**
41 **proceedings before the board. The board shall not be a party to**
42 **any action for judicial review of an action of the board.**

43 **(2) There is no right to review of any order issued by the board**

1 in a no-fund warrant proceeding pursuant to K.S.A. 12-110a, 12-
2 1662 et seq., 19-2752a, 79-2938, 79-2939 and 79-2951, and amend-
3 ments thereto, and statutes of a similar character.

4 (3) The court of appeals has jurisdiction of any action for re-
5 view pertaining to property appraised and assessed by the director
6 of property valuation, excise, income or inheritance taxes assessed
7 by the director of taxation and the exemption of any property from
8 property taxation. The district court of the proper county has ju-
9 risdiction in all other cases.

10 (4) Review of orders issued by the board of tax appeals relating
11 to the valuation or assessment of property for ad valorem tax pur-
12 poses or relating to the tax protest shall be conducted by the dis-
13 trict court of the county in which the property is located or, if
14 located in more than one county, the district court of any county
15 in which any portion of the property is located. *If the review of an*
16 *order as provided in this subsection is sought by a county and the taxpayer*
17 *prevails on such appeal, the court shall award to the taxpayer reasonable*
18 *attorney fees and costs incurred by the taxpayer on such appeal.*

19 (5) In addition to the cost of the preparation of the transcript,
20 the appellant shall pay to the board the other costs of certifying
21 the record to the reviewing court. Such payment shall be made
22 prior to the transmission of the agency record to the reviewing
23 court.

24 (d) If review of an order of the board relating to excise, income
25 or inheritance taxes, is sought by a person other than the director
26 of taxation, such person shall give bond for costs at the time the
27 petition is filed. The bond shall be in the amount of 125% of the
28 amount of taxes assessed or a lesser amount approved by the court
29 of appeals and shall be conditioned on the petitioner's prosecution
30 of the review without delay and payment of all costs assessed
31 against the petitioner.

32 (e) If review of an order is sought by a party other than the
33 director of property valuation or a taxing subdivision and the order
34 determines, approves, modifies or equalizes the amount of valua-
35 tion which is assessable and for which the tax has not been paid, a
36 bond shall be given in the amount of 125% of the amount of the
37 taxes assessed or a lesser amount approved by the reviewing court.
38 The bond shall be conditioned on the petitioner's prosecution of
39 the review without delay and payment of all costs assessed against
40 the petitioner.

41 Sec. ~~14~~ 15. K.S.A. 12-1694a, 12-16,100, ~~74-2426~~, 79-6a09, 79-3461
42 and 79-41a09 and K.S.A. 2005 Supp. 79-15,113, 79-32,105, 79-3311, 79-
43 3491a, 79-3620, 79-3710, 79-4227 and 79-4711 are hereby repealed.

1 Sec. ~~15~~ **16**. This act shall take effect and be in force from and after
2 its publication in the statute book.