

**Senate Assessment and Taxation Committee
House Bill 2484 Proponent Testimony
House Bill 2487 Opponent
Scott Schneider, Hinkle Law Firm
January 24, 2022**

The Kansas Restaurant & Hospitality Association supports food sales having the same tax treatment. In our pursuit of consistency, KRHA supports this bill. HB 2484 would remove the entire food sales tax on both prepared and unprepared food. Restaurants make their living understanding the marketplace and why customers choose their food over a competitor. We also understand why this issue remains a priority to so many policy makers in Kansas. Food is important and touches everyone. Raising the policy question, “should a government tax food?” is appropriate and even necessary. But I would encourage everyone to carefully consider the next question, “Should a government discriminate and decide what food is more valuable?” This is more complicated. HB 2484, while it may not be the perfect answer, avoids this dilemma.

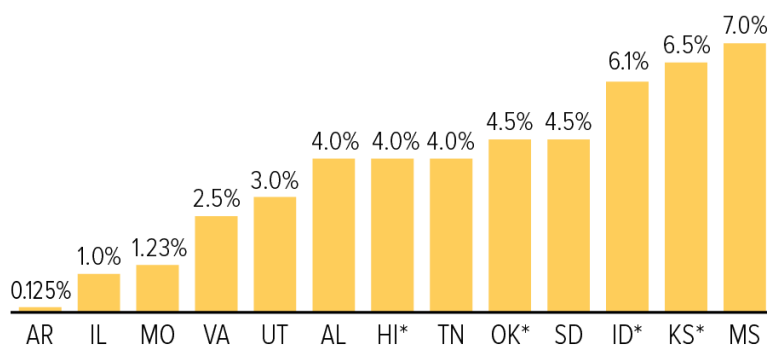
KRHA fully understands how energized this issue has become and would encourage all Kansans to more carefully understand how people obtain their food. Most Kansans are fortunate to live near a grocery store, but not everyone. Most are fortunate to have transportation, but not everyone. Most are fortunate to have their utilities available to cook food, but not everyone. Before you think this is an urban issue, I would encourage you to think about the small towns who no longer have a grocery store. People get their food where they can. Should those, who have less access to unprepared foods, pay more for their breakfast?

Prior to the COVID-19 pandemic one half of every food sale was through a restaurant. Unfortunately, our members were either fully shut down or severely restricted while grocery stores, who would also benefit from this and other food sales tax cut bills, were allowed to remain open. While grocery stores were inviting mask-less customers in, packing their stores and repaving their parking lots we were busy asking the Department of Agriculture for permission to liquidate our inventory for pennies on the dollar before it all spoiled. If we look at the marketplace, Kroger’s net worth was \$17.18 billion on 7/22/2019 and is now more than doubled at \$36.45 billion. At the same time, Kansas followed the national trend and lost nearly one third of every restaurant. KRHA did not ask for HB 2484 but out of fairness and a pursuit to remain consistent, we felt we should support the lack of discrimination in this bill.

KRHA supports HB 2484 because it does not discriminate and opposes HB 2487 because it does. We believe this issue is much more about the heavy reliance on Kansas sales tax than it is about food.

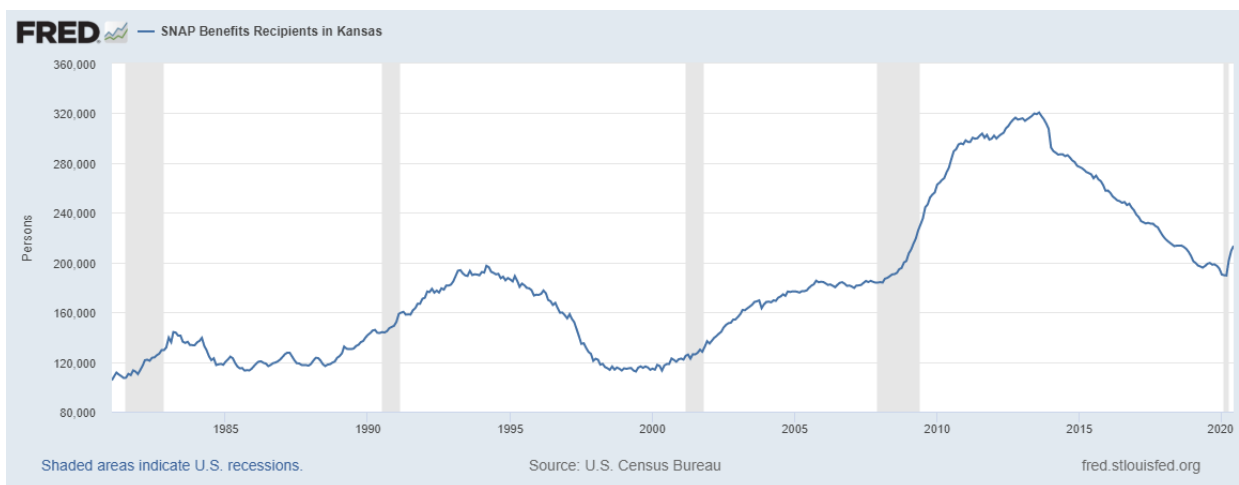
If HB 2487 passed Kansas would have the 11th highest food sales tax in many local jurisdictions at 2%.

Sales Tax Rates on Food Purchases Vary Significantly



*State tax credit partly offsets cost of tax.

, research indicates that once the Food Security Act of 1985 prohibition of states assessing a tax on SNAP benefits is considered the progressivity that many proponents are pursuing, simply do not materialize. It is likely, that contrary to the proponents of HB 2487, this approach actually does not help the 213,378 Kansans on food stamps as these Kansans do not pay sales tax on food according to federal law.



In fact, without the progressivity, “the nontaxability of SNAP benefits sharply reduces the distributional case. If the poor are generally protected, the direct benefits of the tax exemption accrue to middle- and upper-income households. Purchases of filet mignon, expensive fresh fish, or exotic organic mushrooms at Whole Foods or gourmet stores escape taxation.”¹

The article continues, “we have shown that because SNAP effectively targets poor households and because SNAP benefits are nontaxable, the poor do not really benefit from the sales tax exemption for food at home. Indeed, almost surely they would be better off if food at home were in the tax base and revenue-neutral adjustments were made to the sales tax rate.” Id

Finally, this tax reduction will have an effect on other programs and I notice a \$13.0 million annual transfer from the State General Fund to a new State Treasurer’s STAR Bonds Food Sales Tax Revenue Replacement Fund. The Governor’s budget report indicates, “This recommendation will hold STAR bond districts harmless from the elimination of the state sales tax on food and food ingredients that the Governor has recommended to go into effect on July 1, 2022. The STAR Bonds Food Sales Tax Revenue Replacement Fund would be funded with quarterly transfers from the State General Fund.”

KRHA has testified on this issue for many years and we will remain consistent with our position that all food should receive the same tax treatment in Kansas. HB 2484 meets that standard.

¹ Sheffrin, Steven M. and Johnson, Anna, Rethinking the Sales Tax Food Exclusion with SNAP Benefits (November 30, 2015). State Tax Notes, January 11, 2016, 149-58, Available at SSRN: <https://ssrn.com/abstract=2597228> or <http://dx.doi.org/10.2139/ssrn.2597228>