

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2033

As Amended by Senate Committee on
Assessment and Taxation

Brief*

HB 2033, as amended, would retroactively ratify the results of a 2017 election in Finney County seeking to increase that county's tax by 0.3 percent and would clarify the county has such rate authority. The tax imposed by the election would be for purposes of an interlocal agreement between the Finney County and the City of Garden City regarding certain infrastructure upgrades and would sunset after 15 years.

The bill would require the Director of Taxation (Director) to confirm all provisions of law applicable to the authorization of local sales taxes have been followed prior to causing collections to commence. Should the Director discover a city or county did not comply with the authorization law after collections have commenced, collections would cease until such error has been remedied.

The bill would be in effect upon publication in the *Kansas Register*.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

HB 2033

HB 2033, as introduced, would have provided additional local sales tax authority for Thomas, Jackson, Russell and Dickinson counties.

HB 2033 was introduced by Representative Adam Smith on January 15, 2019. In the House Committee on Taxation hearing on January 23, 2019, Representative Smith testified as a proponent of HB 2033. He spoke to Thomas County's need for a new consolidated Criminal Justice Center to house the Courts, the County Attorney, the Sheriff's Office, the jail, and the Colby Police Department. He noted that a November 2017 Thomas County election approved a one-half cent increase in sales tax and the bill would levy an additional one-fourth cent increase. Representatives from the Kansas Association of Realtors and Thomas County also testified as proponents. Representatives Awerkamp and Waymaster and a representative of Dickinson County provided written-only proponent testimony. No neutral or opponent testimony was provided.

On January 24, the House Committee on Taxation amended the bill to include the provisions of HB 2040 relating to Finney County. [Note: The background of HB 2040 is included below.]

On February 7, the House Committee of the Whole adopted a technical amendment.

On March 20, the Senate Committee on Assessment and Taxation amended the bill to remove the provisions relating to the four counties in the original bill (leaving only Finney County) and inserted such provisions into HB 2160. The Senate Committee also amended the bill to include language regarding local sales tax authorization and the requirements of the Director.

HB 2040

HB 2040 was introduced by Representative Hineman on behalf of Garden City and Finney County on January 16, 2019. In the House Committee on Taxation hearing on January 23, 2019, representatives from Finney County, Garden City, and the Kansas Association of Counties testified as proponents of HB 2040. The representative from Finney County testified the bill would approve a November 2017 joint Finney County and Garden City election approving a 0.3 percent increase in sales tax for 15 years. The representative noted Finney County is the retail hub of Southwest Kansas. No neutral or opponent testimony was provided.

Fiscal Information

According to the fiscal notes prepared by the Division of the Budget on HB 2033 and HB 2040, as introduced, the Department of Revenue indicates both bills would only affect local sales tax collections and would have no effect on state revenues. Any administrative costs of implementing the bill would be negligible and could be absorbed within existing Department of Revenue resources. An updated fiscal note on HB 2033, as amended by the Senate Committee on Assessment and Taxation, was not immediately available.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2160

As Amended by Senate Committee on
Assessment and Taxation

Brief*

HB 2160, as amended, would make a number of changes to local sales tax authorization statutes and create a sales tax exemption for certain coins and bullion.

Local Sales Tax Authority

The bill would increase the maximum local sales tax rate that could be imposed by Thomas County from 1.50 percent to 1.75 percent, provided all taxes levied in excess of 1.00 percent remain earmarked for financing a courthouse, jail, law enforcement center, or other county administrative facility. Any specially earmarked tax imposed by the bill would be required to sunset when the project costs had been fully paid. An election would be required for an increase in the current Thomas County sales tax, which is 1.50 percent.

The bill would extend from five years to ten years the sunset on any 0.5 percent tax imposed by Russell County for economic development initiatives or public infrastructure projects.

The bill would renew existing sales tax authority for Jackson County to impose, subject to voter approval, a countywide sales tax of 0.4 percent to finance public infrastructure projects. As under continuing law, any such tax imposed would sunset after seven years.

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The bill would allow Dickinson County to impose, subject to voter approval, a countywide sales tax of 0.5 percent to finance roadway construction and improvement. This authorization would require any such tax imposed to sunset after ten years, instead of five years as in current law.

The bill would extend the authority of Wabaunsee County to impose a 0.5 percent retail sales tax for an additional period not to exceed 15 years, subject to voter approval.

Sales Tax Exemption

The bill would provide a sales tax exemption for all sales of gold or silver coins and gold, silver, platinum, or palladium bullion.

Background

The bill was introduced by the House Committee on Taxation at the request of Representative Highland on behalf of constituents.

In the House Committee hearing on February 13, 2019, Representative Highland testified as a proponent. Representatives from the Kansas Association of Counties and the Wabaunsee County Commission District 1 also testified as proponents, stating the current authority of Wabaunsee to impose the 0.5 percent additional retail sales tax would sunset in 2022 and the bill would authorize Wabaunsee County to hold an election extending the retail sales tax. No neutral or opponent testimony was provided.

The House Committee amended the bill to remove a provision authorizing Wabaunsee County to conduct subsequent elections to extend the 0.5 percent retail sales tax at intervals not exceeding 15 years.

The Senate Committee amended the bill to insert the contents of House Bill 2033, as amended by the House Committee of the Whole, except the provision concerning Finney County and to insert the provision concerning the sales tax exemption for coins and bullion.

On January 24, 2019, the House Committee on Taxation amended HB 2033 by inserting the contents of HB 2040 into HB 2033 and removing redundant sections. The following provides the backgrounds of both bills.

HB 2033

HB 2033 was introduced by Representative Adam Smith on January 15, 2019.

In a hearing before the House Committee on Taxation on January 23, 2019, Representative Adam Smith testified as a proponent of HB 2033. He spoke to Thomas County's need for a new consolidated Criminal Justice Center to house the Courts, the County Attorney, the Sheriff's Office, the jail, and the Colby Police Department. He noted that a November 2017 Thomas County election approved a one-half cent increase in sales tax and that the bill would levy an additional one-fourth cent increase. Representatives from the Kansas Association of Realtors and Thomas County also testified as proponents. Representative Awerkamp, Representative Waymaster, and a representative of Dickinson County provided written-only proponent testimony. No neutral or opponent testimony was provided.

The House Committee of the Whole adopted a technical amendment to make changes to the bill's introductory clause.

HB 2040

HB 2040 was introduced by Representative Hineman on the behalf of Garden City and Finney County on January 16, 2019.

In a hearing before the House Committee on Taxation on January 23, 2019, representatives from Finney County, Garden City, and the Kansas Association of Counties testified as proponents of HB 2040. The representative from Finney County testified the bill would approve a November 2017 joint Finney County and Garden City election approving a 0.3 percent increase in sales tax for 15 years. The representative noted Finney County is the retail hub of southwest Kansas. No neutral or opponent testimony was provided.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue (Department) indicates the bill would affect local sales tax collections and would have no fiscal affect on state revenues. The Department also indicates costs associated with implementation of the bill could be absorbed within the Department's existing resources.

A revised fiscal note on the bill as amended by the Senate Committee indicated enactment of the bill would result in an annual reduction of state revenues of \$7,840, including \$6,574 from the State General Fund.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2063

As Recommended by House Committee on
Taxation

Brief*

HB 2063 would include as an exemption to the current property tax lid law any tax levy increase resulting from the dissolution of one taxing entity and transfer of its responsibilities to another city or county, provided any such increase does not exceed the prior levy of the dissolved entity.

Background

HB 2063 was introduced by Representative Eplee on behalf of Representative Lewis on January 22, 2019.

In a hearing before the House Committee on Taxation on January 29, 2019, Representative Eplee testified as a proponent of the bill on behalf of Representative Lewis. Representative Eplee noted HB 2063 relates to 2018 HB 2628, which was passed by the 2018 Legislature. He testified HB 2628 granted the City of Pratt a remedy of capacity to dissolve the Pratt Airport Authority if needed in the future and HB 2063 provides a tax remedy by authorizing the Pratt Airport Tax Authority to be transferred to the City of Pratt without requiring a vote under the tax lid. Representatives from the Kansas Association of Counties, the Kansas Association of Realtors, and the League of Kansas Municipalities also provided proponent testimony. Representative Lewis and a representative of the City of Pratt provided written-only proponent testimony.

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No neutral or opponent testimony was provided.

The House Committee recommended the bill be placed on the Consent Calendar.

According to the fiscal note prepared by the Division of the Budget on the bill, the League of Kansas Municipalities and Kansas Association of Counties indicate the bill would have a fiscal effect on cities and counties, but the effect could not be estimated. The Kansas Department of Revenue indicates the bill would have no fiscal effect on state revenues.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2371

As Amended by House Committee on Taxation

Brief*

HB 2371, as amended, would change the permit fee structure for oversize and overweight vehicles beginning January 1, 2020, as follows:

- \$40 per single-trip permit;
- \$250 per single-trip permit for a large structure (as defined by rules and regulations);
- \$250 per single-trip permit for superloads (as defined by rules and regulations);
- \$25 per five-year permit for vehicles authorized to move bales of hay on non-interstate highways (as defined in current law);
- \$200 per annual permit; and
- \$2,000 per year per qualified carrier company for special vehicle combination permits (as defined in current law) plus \$50 per power unit operating under such annual permit.

The bill would also require, beginning January 1, 2020, the annual registration with the Secretary of Transportation (Secretary) of any company operating an escort vehicle service. The bill would require such registration to include:

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- The name and address of the agent for service of process;
- Proof of insurance for each vehicle operated in the state;
- Proof of each escort vehicle driver's valid operator's license issued by a state or territory of the United States;
- Proof that each escort vehicle driver has successfully completed an escort vehicle training course approved by the Secretary; and
- Other information as required by the Secretary.

The bill would authorize the Secretary to revoke, suspend, or refuse to issue a registration upon any violation of the registration requirements.

Background

The bill was introduced by the House Committee on Taxation on February 13, 2019, at the request of Representative Proehl on behalf of the Legislative Transportation Vision Task Force.

In the House Committee hearing on March 14, 2019, Representative Proehl testified as a proponent. Written-only proponent testimony was provided by representatives of the American Council of Engineering, Ash Gove Cement Company, and Economic Lifelines. Neutral testimony was provided by representatives of the Kansas Department of Transportation and Kansas Grain and Feed Association. Opponent testimony was provided by the Kansas Motor Carriers Association. Written-only opponent testimony was provided by the Kansas Manufactured Housing Association.

On March 21, 2019, the House Committee amended the bill to change the date the new oversize and overweight permit fees become effective to January 1, 2020. The House Committee also amended the bill to include provisions relating to registration of escort vehicles in Kansas. Finally, the House Committee amended the bill by changing certain oversize and overweight permit fees. The original opponents of the bill (the Kansas Motor Carriers Association and the Kansas Manufactured Housing Association) changed to proponents of the bill with the adopted amendments.

The House Committee recommended the bill, as amended, favorably for passage.

A fiscal note on the bill, as amended, was not available at the time the House Committee took action on the bill.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2372

As Amended by House Committee on Taxation

Brief*

HB 2372, as amended, would impose new annual vehicle registration fees of \$75 for certain plug-in hybrid electric vehicles and \$150 for all-electric plug-in vehicles on and after January 1, 2020.

Background

The bill was introduced by the House Committee on Taxation at the request of Representative Proehl. During the House Committee hearing on March 14, 2019, Representative Proehl testified in support of the bill, stating the bill is one of several recommendations made by the Legislative Transportation Vision Task Force. Representatives of the Kansas Contractors Association and the Wichita Regional Chamber of Commerce also gave proponent testimony. Written-only testimony in support of the bill was submitted by representatives of the American Council of Engineering Companies, Economic Lifelines, the Kansas Economic Progress Council, the Kansas Society of Professional Engineers, Overland Park Chamber of Commerce, and the Petroleum Marketers and Convenience Store Association.

Neutral testimony was provided by representatives of the and the Clean Energy Business Council Kansas Department of Transportation.

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A representative of the Auto Alliance Driving Innovation appeared as an opponent. A representative of the Metropolitan Energy Center submitted written-only opponent testimony.

On March 21, 2019, the House Committee amended the bill at the recommendation of Representative Proehl to clarify the application of the new fees more generally to certain plug-in vehicles.

According to the fiscal note provided by the Division of the Budget on the bill, as introduced, the Division of Vehicles (Division), Department of Revenue, indicates receipts to the State Highway Fund would be expected to increase by \$0.305 million in FY 2020, and by \$0.610 million on an annualized basis. The fiscal note observed that receipts from the new fees would be expected to grow rapidly over time to the extent that sales of non-gasoline vehicles are expected to increase by as much as 400.0 percent by 2040.

A fiscal note on the the bill, as amended by the House Committee, was not immediately available.

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 125

As Recommended by Senate Committee on
Assessment and Taxation

Brief*

SB 125 would extend the Rural Opportunity Zone Program by five years. The deadline for a participant to begin participation in the student loan repayment portion of the program would be extended to July 1, 2026, and the individual income tax credit portion of the program would be extended through tax year 2026. A requirement for the Department of Commerce to provide an annual report concerning the program would also be extended an additional five years.

Background

The bill was introduced by Senators Hilderbrand, Alley, Baumgardner, Berger, Billinger, Bowers, Doll, Estes, Givens, Goddard, Hawk, Longbine, Masterson, Olson, Petersen, Pyle, Rucker, Skubal, Suellentrop, Taylor, and Wilborn. At the Senate Committee hearing on the bill, Senator Hilderbrand and representatives of the City of Fort Scott and Crawford County Board of Commissioners testified in support of the bill. Written-only testimony in support of the bill was provided by the Kansas Hospital Association and Pittsburg State University. No opponent or neutral testimony was provided.

According to the fiscal note prepared by the Division of the Budget, enactment of the bill would reduce State General Fund revenues by \$2.6 million in fiscal year 2022 and \$3.0 million in fiscal year 2023 because of the extension of the

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income tax credit. The Department of Revenue indicates it would require \$52,750 from the State General Fund to implement the bill and modify the automated tax system. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 135

As Amended by Senate Committee on
Assessment and Taxation

Brief*

SB 135 would expand the list of eligible counties for participation in the Rural Opportunity Zone (ROZ) Program to include Atchison County, Cowley County, Crawford County, Dickinson County, Ford County, Franklin County, Miami County, and Pottawatomie County.

Background

The bill was introduced by Senators Hilderbrand, Alley, Hardy, Olson, Petersen, and Pyle. At the Senate Committee on Assessment and Taxation hearing, Senators Hilderbrand and Wilborn and a representative of the Crawford County Board of Commissioners testified in support of the bill. Written-only proponent testimony was provided by the Kansas Association of Counties, Kansas Hospital Association, Pittsburg Chamber of Commerce, and Pittsburg State University. No neutral or opponent testimony was provided.

On February 2, the Senate Committee amended the bill to include Ford County and Miami County as eligible counties.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue estimates enactment of the bill would be expected to reduce fiscal year 2020 State General Fund receipts by

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\$472,000 and may require approximately \$63,000 from the State General Fund for the state obligations of the student loan repayment portion of the ROZ Program. Additionally, the Department of Commerce indicates it is at maximum work capacity for reviewing applications for the ROZ Program and indicates it would require an additional 1.0 FTE position for the additional applications. A revised fiscal note for the amended bill was not immediately available. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 178

As Amended by Senate Committee of the Whole

Brief*

SB 178, as amended, would provide a sales tax exemption for purchases made by nonprofit integrated community care organizations, which would be defined by the bill.

“Nonprofit integrated community care organization” would be defined as any entity that is exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, certified to participate in Medicare as a hospice focused on providing care to the aging and indigent population across multiple counties, and approved by the Kansas Department for Aging and Disability Services to provide services under the Program of All-Inclusive Care for the Elderly.

An additional provision of the bill would mandate that legislative enactments establishing new sales tax exemptions on or after January 1, 2020, repeal or suspend existing exemptions with an equal or greater fiscal impact.

Background

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Midland Care Connection.

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During the Senate Committee hearing, a representative of Midland Care Connection testified in support of the bill. No opponent or neutral testimony was provided.

The Senate Committee of the Whole amended the bill on March 20, 2019, to add the provision that would require repeal of extant sales tax exemptions under certain circumstances on and after January 1, 2020, when new exemptions are added.

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, the Department of Revenue estimates enactment of the bill would reduce all funds receipts by \$257,000 in fiscal year 2020, of which \$215,500 would come from the State General Fund. The remaining \$41,500 reduction would be in State Highway Fund receipts. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 104

As Amended by Senate Committee of the Whole

Brief*

SB 104, as amended, would enact the Kansas Taxpayer Protection Act (Taxpayer Protection Act), enact the Golden Years Homestead Property Tax Freeze Act (Tax Freeze Act), allow disabled veteran renters to claim the property tax refunds under the current Homestead Property Tax Refund Act (Homestead), and allow individual income taxpayers to claim the expense deduction.

Kansas Taxpayer Protection Act

The bill would require paid tax return preparers to sign any income tax return prepared by or substantially prepared by the preparer and to include the preparer's federal preparer tax identification number on any such return. Any failure to do so would subject the preparer to a civil penalty of \$50 per return with a maximum of \$25,000 in civil penalties per preparer per year. Any civil penalties assessed could be appealed pursuant to the Kansas Administrative Procedure Act. Any penalties collected would be deposited in the State General Fund.

The bill would authorize the Secretary of Revenue (Secretary) to enjoin any person from acting as a paid tax preparer by seeking a temporary or permanent order from a court of competent jurisdiction enjoining such conduct. Under the bill, an injunction could be issued by a court if the preparer has engaged in any of the following conduct:

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- Prepared a return that understates the taxpayer's liability due to an "unreasonable position," as that term is defined in the Internal Revenue Code;
- Prepared a return that understates the taxpayer's liability due to "willful or reckless conduct," as that term is defined in the Internal Revenue Code;
- Fails to, when required, furnish a signed copy of the return including the preparer's federal preparer tax identification number, retain a copy of the return, or be diligent in determining eligibility for tax benefits;
- Negotiates a check issued to the taxpayer by the Kansas Department of Revenue without the permission of the taxpayer;
- Engages in any conduct subject to any criminal penalty provided for in Chapter 79 of the *Kansas Statutes Annotated* or amendments thereto;
- Misrepresents the preparer's education, experience, or eligibility to practice tax preparation;
- Guarantees the payment of any tax refund or the allowance of any tax credit; or
- Engages in any other fraudulent or deceptive conduct that substantially interferes with proper administration of Kansas tax laws.

The bill would allow the Secretary to seek the assistance of the Attorney General or the Attorney General's designee in pursuing such injunctions, and the Secretary would be required to publish an annual report concerning such injunctions on the website of the Kansas Department of Revenue.

The bill would provide that any person, whether or not a resident of Kansas, submits to the jurisdiction of the courts of the State of Kansas for purposes of such injunctions by engaging in any conduct that could give rise to a cause of action under the Taxpayer Protection Act. The bill would provide that legal actions brought under the Taxpayer Protection Act would be brought in the district court of Shawnee County. The Secretary would be permitted to enter into consent judgments with respect to violations of the Taxpayer Protection Act in lieu of actions seeking injunctions under the Taxpayer Protection Act.

The bill would authorize the Secretary to promulgate rules and regulations necessary to carry out the provisions of the Taxpayer Protection Act.

Golden Years Homestead Property Tax Freeze Act

The bill would establish a new property tax circuit breaker refund program (refund program) beginning in tax year 2019 that would provide refunds of a portion of property taxes paid on qualifying residential homestead property equivalent to the total property tax increase over the base year. For taxpayers qualifying at the time of enactment, tax year 2018 liability would be deemed as the base year. For all other taxpayers, the base year would be the first year in which they are eligible to claim the refund provided by the Tax Freeze Act.

In order to qualify for the refund program, the bill would require taxpayers to have a household income of less than \$50,000 and be 65 years of age or older or a disabled veteran. The value of the qualifying residential homestead property also would have to be less than \$350,000. Qualifying taxpayers would be ineligible to claim a Golden Years refund if they are seeking to claim either of the two existing circuit breaker programs: the Homestead Property Tax Refund or the Selective Assistance for Effective Senior Relief (SAFESR) Refund. The bill would allow surviving spouses of qualified

individuals to continue in the Golden Years program unless they subsequently remarry. Golden Years claims would be required to be filed by April 15, relative to refund amounts determined by the previous property tax year's liability.

Under the bill, disabled veterans would include Kansas residents honorably discharged from active service in any branch of the armed forces of the United States or Kansas National Guard who have been determined to have a 50 percent permanent disability sustained while on active duty.

Beginning with the second year of the program, the Director of Taxation would be required to send county clerks electronic records by October 15 of each year containing names of eligible claimants who have received refunds under the Tax Freeze Act for the prior year.

Under the bill, the Director of Taxation would have authority to apply refunds to any state tax liability of the qualified individual or other member of the household. Remaining refunds would first be applied to any delinquent property taxes on the homesteads and then to any current property tax liability.

The bill would grant the Secretary broad authority to adopt rules and regulations necessary for administration of the Tax Freeze Act.

Disabled Veteran Renters

The bill would also allow disabled veterans who are renters to claim refunds under the current Homestead program under the statutory presumption that 15.0 percent of qualifying rental payments would be deemed the equivalent of property taxes paid for purposes of that program. (Note: Legislation enacted in 2012 had removed all renters from the Homestead program.)

Expense Deduction

The bill would allow individual income taxpayers to begin claiming the expense deduction (provided by KSA 2018 Supp. 79-32,143a) for the costs of placing certain tangible property and computer software into service in the state beginning in tax year 2019.

Background

SB 104

SB 104 was introduced by the Senate Select Committee on Federal Tax Code Implementation at the request of Senator Longbine.

At the Senate Committee on Assessment and Taxation hearing, a representative of H&R Block testified in support of the bill. No other testimony was provided.

The Senate Committee amended SB 104 to clarify the provisions of the bill would not apply to individuals licensed as Certified Public Accountants (CPAs). H&R Block had recommended this clarification, noting CPAs are regulated by the Kansas Board of Accountancy.

The Senate Committee of the Whole amended SB 104 to include the provisions of SB 91 regarding the Tax Freeze Act and disabled veteran renters; and to include the provisions related to the expense deduction. The relevant background for SB 91 is included below.

SB 91 (Tax Freeze Act, Disabled Veteran Renters)

SB 91 was introduced by Senators Holland, Baumgardner, Doll, Faust-Goudeau, Haley, Hawk, Lynn, Pettey, and Sykes.

During the Senate Committee on Assessment and Taxation hearing on February 14, Senator Holland appeared as the lead proponent. Other proponents included Senators Baumgardner and Faust-Goudeau, representatives of the Kansas Association of Realtors and the Kansas Silver Haired Legislature, and two private citizens. The Sedgwick County clerk submitted written-only testimony in opposition to the bill. Written-only neutral testimony was submitted by representatives of the AARP, Johnson County Board of County Commissioners, Kansas Association of Counties, and the League of Kansas Municipalities.

SB 91, as introduced, would have prevented taxpayers with homesteads subject to mortgages or other security interests from qualifying for refunds under the Golden Years program and restored the ability of all renters otherwise qualified under the income and demographic tests to claim traditional Homestead refunds. On February 25, the Senate Committee amended the bill to remove the prohibition against property subject to liens being eligible for Golden Years refunds and to limit the restoration of Homestead refunds to only those renters who are disabled veterans.

Fiscal Information

SB 104, as Introduced

According to the fiscal note prepared by the Division of the Budget on SB 104, as introduced, the Department of Revenue indicates the fines provided for by the bill have the potential to increase State General Fund revenues; however, the Department was unable to estimate the amount of such increase. The costs associated with enactment of the bill are estimated to be negligible and could be absorbed within existing resources. The Office of the Attorney General indicates the Taxpayer Protection Act has the potential to increase litigation costs beginning in FY 2020, but did not estimate the amount of such an increase.

Senate Committee of the Whole Amendments

A representative of the Department of Revenue stated the Tax Freeze Act, disabled veteran renters, and expense deduction provisions would be expected to have the following impact on State General Fund receipts.

(DOLLARS IN MILLIONS)

	<u>FY 2020</u>	<u>FY 2021</u>	<u>FY 2022</u>
Golden Years Refunds	\$ (4.5)	\$ (9.1)	\$ (13.6)
Disabled Veteran Renters Refunds	(0.5)	(0.5)	(0.5)
Expense Deductions	(9.0)	(9.0)	(9.0)
Total	\$ (14.0)	\$ (18.6)	\$ (23.1)

Note: Totals may not add due to rounding.

Administrative costs associated with Senate Committee of the Whole amendments to SB 104 were not immediately available.

Any fiscal effect associated with enactment of SB 104 is not reflected in *The FY 2020 Governor's Budget Report*.

SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 155

As Recommended by Senate Committee on
Ways and Means

Brief*

SB 155 would deannex all City of Valley Center territory within the Hillside Cemetery District, located in Sedgwick and Harvey counties, from the cemetery district, effective June 30, 2020. After July 1, 2020, any territory annexed by the City of Valley Center located within the Hillside Cemetery District would be excluded from the cemetery district upon annexation.

Background

The bill was introduced in the Senate Committee on Ways and Means at the request of Senator McGinn. In the Senate Committee hearing, representatives of the Hillside Cemetery District and the League of Kansas Municipalities (LKM) provided written-only proponent testimony. The conferees testified the bill would prevent some citizens in the city of Valley Center from being taxed for two cemetery districts. No other testimony was provided.

The Senate Committee recommended the bill be placed on the Consent Calendar.

According to the fiscal note prepared by the Division of Budget, the LKM states the bill could reduce property taxes for city residents who live within the cemetery district, but a fiscal effect could not be estimated.

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SESSION OF 2019

SUPPLEMENTAL NOTE ON SENATE BILL NO. 22

As Amended by House Committee of the Whole

Brief*

SB 22, as amended, would make several changes to Kansas income tax provisions in response to federal income tax changes enacted late in 2017; reduce the state sales tax rate by 1.0 percent on certain purchases of food; and enact a number of provisions in response to a U.S. Supreme Court decision authorizing states and local units to collect sales and compensating use taxes on certain transactions made through out-of-state retailers and marketplace facilitators who have an economic presence (nexus) in Kansas.

Individual Income Tax

The bill would remove a restriction under current law preventing Kansas individual income taxpayers from itemizing deductions for state income tax purposes unless they also itemize deductions for federal income tax purposes.

Beginning with tax year 2018, the bill would provide an option to take Kansas itemized deductions regardless of whether itemized deductions or the standard deduction are claimed for federal tax purposes. Language in the bill would authorize the filing of amended returns through December 31, 2019, for purposes of this provision's retroactive applicability to tax year 2018.

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Business Income Tax

The bill would stipulate for tax year 2017 and thereafter, Kansas would not be taxing deferred foreign income, defined to include income under section 965(a) of the federal Internal Revenue Code (Code) (certain repatriation income). The bill would require certain deductions used in determining federal adjusted gross income for the repatriated income to be added back for Kansas income tax purposes prior to the determination of Kansas adjusted gross income.

For tax year 2018 and thereafter, global intangible low taxed income (GILTI) under section 951A of the federal Code would not be subject to the Kansas income tax. The bill would require certain related deductions claimed prior to the determination of federal adjusted gross income to be added back prior to the determination of Kansas adjusted gross income.

Kansas similarly would exempt for tax year 2018 and thereafter certain disallowed business interest under section 163(j) of the federal Code in effect on January 1, 2018, while deductions attributable to a carry-forward of such disallowed business income under the federal Code in effect on that date would be required to be added back for all years beginning with tax year 2018.

The bill further would provide for tax year 2018 and thereafter certain capital contributions, as determined under federal Code section 118, would be excluded from the Kansas income tax.

Finally, for tax year 2018 and thereafter, amounts attributable to the disallowance of Federal Deposit Insurance Corporation premiums paid by certain large financial institutions would be excluded from Kansas income taxation.

Specific language in the bill would clarify the retroactive application of several of these sections, which would effectively authorize the filing of amended returns to claim

refunds during the three-year statute of limitations available under current law.

Sales Tax on Food

The bill would reduce the sales tax rate on certain food and food ingredients from 6.5 percent to 5.5 percent beginning October 1, 2019. The reduction would extend to substances sold for ingestion or chewing by humans and consumed for their taste or nutritional value. The reduction would apply to any items eligible to be purchased with food stamps issued by the U.S. Department of Agriculture.

Internet Sales and Use Tax

The bill would enact the Kansas Main Street Parity Act (KMSPA) designed to clarify the applicability of Kansas sales and use tax provisions to certain out-of-state retailers and marketplace facilitators. Generally, such entities would be required, beginning October 1, 2019, to collect tax if they have more than \$100,000 in total gross sales sourced to Kansas.

Specifically excluded from the definition of “marketplace facilitators” would be platforms and forums providing certain Internet advertising services and those entities selling or charging for rooms, lodging, or accommodations for occupancy provided by hotels, motels, and inns.

Related to the KMSPA provisions, the bill would repeal a requirement under current law (KSA 79-3221o) that Kansas individual income tax forms contain a line allowing taxpayers to voluntarily remit unpaid use taxes as part of their income tax reconciliation.

Background

SB 22, as amended, includes provisions of HB 2261 and HB 2352. The following provides background information on each bill.

SB 22 (Individual and Business Income Tax)

SB 22, as introduced, which dealt with the individual and business income tax provisions in the wake of the 2017 federal tax law changes, was introduced on January 17 by the Senate Committee on Federal and State Affairs at the request of Senator Masterson.

In the Senate Select Committee on Federal Tax Code Implementation hearing on January 29, a representative of the Kansas Chamber appeared as the lead proponent, stating the legislation would return to taxpayers certain additional Kansas income tax receipts that had been and would continue to be collected as a result of enactment of the federal Tax Cuts and Jobs Act in 2017. Two representatives of Ernst and Young also appeared as proponents and explained how other states had been treating repatriated and GILTI income. A number of additional proponents appeared during continuation of the hearing on January 30, including representatives of Cargill and the Kansas Bankers' Association, who spoke primarily in favor of the bill's business income tax provisions. A representative of the Kansas Association of Realtors expressed support for the provision authorizing individual income taxpayers to itemize deductions for Kansas tax purposes regardless of whether deductions have been itemized for federal purposes. Additional proponents appearing on January 31 included representatives of the Council on State Taxation, Seaboard Corporation, and Spirit Aerosystems, all of whom spoke in favor of the business income tax provisions.

Written-only proponent testimony was submitted from several groups, including Bombardier, Inc., the Kansas Beer

Wholesalers Association, and the Overland Park Chamber of Commerce.

Written-only neutral testimony was submitted by the Kansas Association of School Boards and the Kansas National Education Association.

Written-only opponent testimony was submitted by the Kansas Center for Economic Growth.

On January 31, the Senate Select Committee adopted amendments recommended by the Kansas Chamber, whose representative stated the provisions were technical in nature and had been agreed to by legal analysts in the Kansas Department of Revenue (KDOR).

On February 25, the House Committee on Taxation amended the bill to incorporate the 1.0 percent rate reduction on food and food ingredients (provisions present in HB 2261) and the Internet sales and use tax provisions (provisions present in HB 2352).

On March 7, the House Committee of the Whole amended the bill to change the definition of food purchases eligible for the rate decrease to generally apply to items eligible for food stamps, effectively clarifying the reduction would be extended to vending machine sales, which would not have been impacted under the original provisions of HB 2261.

Although a fiscal note on SB 22, as amended by the House Committee of the Whole, was not immediately available, on March 7, KDOR verbally indicated the combined provisions of the bill would have the following impact on receipts.

	(Dollars in Millions)		
	FY 2020	FY 2021	FY 2022
Individual Income Tax Provisions			
Itemized Deduction Option	\$ (50.1)	\$ (60.3)	\$ (60.9)
Business Income Tax Provisions			
Repatriation	\$ (10.5)	\$ (0.4)	\$ (0.2)
GILTI	(70.9)	(24.7)	(24.2)
Limitation on Interest Deductions	(53.1)	(25.5)	(30.6)
FDIC Premium Deductions	(2.7)	(1.3)	(1.3)
Capital Contributions	negligible	negligible	negligible
<i>Subtotal-Business Income Tax</i>	<i>\$ (137.2)</i>	<i>\$ (51.9)</i>	<i>\$ (56.3)</i>
Sales Tax Rate Decrease on Food (all funds)			
State General Fund Share	\$ (36.5)	\$ (55.4)	\$ (56.3)
State Highway Fund Share	(7.0)	(10.7)	(10.8)
<i>Subtotal-Food Sales Tax Decrease</i>	<i>\$ (43.5)</i>	<i>\$ (66.1)</i>	<i>\$ (67.1)</i>
Internet Sales Tax Provisions (all funds)			
State General Fund Share	\$ 18.2	\$ 27.7	\$ 28.2
State Highway Fund Share	3.5	5.4	5.5
<i>Subtotal-Internet Sales Tax</i>	<i>\$ 21.7</i>	<i>\$ 33.1</i>	<i>\$ 33.7</i>
TOTAL	<u>\$ (209.1)</u>	<u>\$ (145.2)</u>	<u>\$ (150.6)</u>
<i>Total State General Fund Share</i>	<i>\$ (205.6)</i>	<i>\$ (139.9)</i>	<i>\$ (145.3)</i>
<i>Total State Highway Fund Share</i>	<i>(3.5)</i>	<i>(5.3)</i>	<i>(5.3)</i>

According to the fiscal note prepared by the Division of the Budget on SB 22, as introduced, KDOR expects to incur an additional \$0.820 million in FY 2020 administrative costs to implement the bill's income tax provisions beyond the amount recommended for the agency in *The FY 2020 Governor's Budget Report*. The Department of Administration indicates collections for its debt setoff program could increase by an indeterminate amount to the extent that more individual income tax refunds would be available for potential interception as a result of the bill's enactment. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

HB 2261 (Sales Tax on Food)

During the House Committee on Taxation hearing on HB 2261, proponents included Representative Tim Hodge and representatives of the Kansas National Education Association, KC Healthy Kids, and the Kansas Food Dealers Association. Opponents included representatives of the Kansas Farm Bureau, the Kansas Chamber, and the Kansas Restaurant and Hospitality Association. Neutral testimony was provided by representatives of Kansas Action for Children and the Kansas Appleseed Center for Law and Justice.

According to the fiscal note prepared by the Division of the Budget on HB 2261, KDOR expects to incur an additional \$2.864 million in additional administrative costs. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

HB 2352 (Internet Sales and Use Tax)

During the House Committee on Taxation hearing, a representative of the League of Kansas Municipalities testified in favor of HB 2352. Representatives of a number of cities and the Overland Park Chamber of Commerce provided written-only proponent testimony. A representative of the Kansas Chamber gave neutral testimony, indicating he would be working with the Department of Revenue and the Office of Revisor of Statutes on a number of clarifying amendments. No opponent testimony was provided.

During informational briefings earlier in the session, staff of KDOR had explained other states had adopted legislation similar to HB 2352 in response to a June 2018 decision by the U.S. Supreme Court (*South Dakota v. Wayfair, Inc.*, 585 U.S. __) authorizing states to compel out-of-state retailers to collect and remit sales and use taxes on transactions involving taxable goods shipped in across state lines.

The House Committee adopted many of the amendments suggested by the Kansas Chamber representative as part of a package presented during House Committee deliberations on February 25, when the provisions of HB 2352 were inserted into SB 22.

Although updated administrative costs associated with the House Committee amendments were not immediately available, according to the fiscal note prepared by the Division of the Budget on HB 2352, as introduced, KDOR expects to incur an additional \$0.506 million in FY 2020 administrative costs.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2340

As Amended by House Committee on Taxation

Brief*

HB 2340, as amended, would prohibit county treasurers, beginning July 1, 2020, from distributing to taxing subdivisions a portion of property taxes paid under protest for residential and commercial property under certain circumstances, effectively providing for the escrow of certain property tax receipts. The prohibition generally would apply to the portion of property taxes paid under protest exceeding the previous year's taxes for residential payment-under-protest cases involving an increase in liability of \$500 or more, and for certain commercial payment-under-protest cases involving an increase in liability of \$5,000 or more. The distribution prohibition specifically would not apply to certain protests of property taxes involving newly constructed structures, unless the appraised value exceeds the building permit enumerated costs by at least 115.0 percent.

County appraisers would be required to send county clerks a certified list of all real properties whose owners are protesting valuation or assessment of property taxes that have not been resolved prior to June 1 of each year, as well as a second list of all real properties with appraised valuation of more than \$40,000 whose owners are seeking an exemption. County clerks would be required to subsequently furnish the lists to all potentially affected taxing units prior to June 15, along with the assessed valuation of each parcel.

County treasurers prior to January 10 of each year also would be required to provide those taxing units affected with lists of all real properties with tax dollars escrowed, as well as

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the assessed valuation of such properties and amount of funds held in escrow.

Background

The bill was requested for introduction by Representative Dave Baker, who appeared as the lead proponent during the public hearing in the House Committee on Taxation on March 14, 2019. Other proponents included representatives of the Kansas Chamber; the Kansas Agribusiness Retailers Association, the Kansas Grain and Feed Association, and Renew Kansas Association; and the Kansas Soybean Association. A representative of the Kansas Association of Realtors submitted written-only testimony in support of the bill. Written-only testimony in opposition was submitted from the Riley County Treasurer; the Sedgwick County Treasurer; and representatives of the Kansas County Treasurers Association, Johnson County, and the City of Overland Park. Representatives of the Kansas Association of Counties and League of Kansas Municipalities appeared as neutral conferees. Neutral written-only testimony also was received from a representative of the Kansas Legislative Policy Group.

The bill as introduced would have applied to certain commercial cases with property tax increases of \$1,000 or more from one year to the next. The House Taxation Committee on March 21, 2019, adopted a package of amendments that included increasing that figure to \$5,000; delaying implementation of the bill until July 1, 2020; providing an exclusion from the escrow requirements for certain newly constructed property; and imposing a variety of notification requirements on county officials. Representative Baker, who offered the package of amendments, said that they had been developed by a number of interested parties to address many of the concerns raised by conferees during the initial public hearing.

A fiscal note prepared by the Division of the Budget on the bill as introduced indicated the escrow requirement had the potential to delay distribution of certain receipts to state funds attributable to the current 21.5 mills in state property tax levies, but the Department of Revenue could not estimate an amount. The Board of Tax Appeals also indicated that the bill was not expected to have any fiscal impact on its operations. The League of Kansas Municipalities and the Kansas Association of Counties indicate the bill could potentially create cash flow problems until the appeals process is final, but that local governments would not be required to pay back disputed money to the county because that money would be held by the county. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2345

As Amended by House Committee on Taxation

Brief*

HB 2345, as amended, would add an exemption to election requirements for cities and counties under the current property tax lid for certain levels of funding not exceeding the highest level of any of the previous five years.

Background

The bill was introduced by the House Committee on Taxation at the request of a representative of the League of Kansas Municipalities (League). During the House Committee hearing March 6, 2019, representatives of the Kansas Association of Counties, the League, Prairie Village, and the Unified Government of Wyandotte County appeared as proponents. Written-only proponent testimony was received from representatives of Dodge City, the Overland Park Chamber of Commerce, and Overland Park City Hall.

Representatives of the Kansas Chamber of Commerce and the Kansas Policy Institute appeared in opposition to the bill. Written-only opponent testimony was received from the Kansas Livestock Association.

A representative of the Kansas Association of Realtors gave neutral testimony on the bill. Written-only neutral testimony was received from representatives of the Kansas Cooperative Council and the Kansas Grain and Feed Association.

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The bill, as introduced, would have added the exemption to election requirements for cities and counties up to the highest funding level of the previous seven years, as adjusted for inflation. On March 21, the House Committee amended the bill to replace seven years with five years and to remove the inflation adjustment provision.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Association of Counties and the League indicate that while it would have no impact on state revenues or expenditures, cities and counties could reduce certain expenditures associated with election costs if the bill were to be enacted.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2380

As Amended by House Committee on Taxation

Brief*

HB 2380, as amended, would make a number of changes relating to procedures undertaken by the Kansas Department of Revenue (KDOR) when seeking collection of delinquent taxes.

The bill would reduce from 6 months to 90 days the amount of time KDOR is required to wait before contracting with debt collection agencies to pursue delinquent taxes.

The bill also would clarify that written notices to taxpayers about the filing of tax warrants are to be served at the same time as the warrant (as opposed to separately as under current law).

Finally, the bill would authorize KDOR to accelerate and provide more frequent payment schedules for liquor drink and liquor enforcement tax collections when there is reason to believe such remittances might otherwise be converted, diverted, lost, or otherwise not timely paid.

Background

The bill was introduced by the House Committee on Taxation at the request of a representative of KDOR.

At the House Committee hearing on March 12, 2019, the representative of KDOR provided proponent testimony, stating the bill would streamline certain collection procedures

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and prevent local sheriffs from having to make two separate trips regarding the notification of certain delinquent taxpayers. No other testimony was provided.

The House Committee adopted a technical amendment requested by the KDOR representative to clarify the language authorizing more frequent payment schedules under certain circumstances also would apply to liquor enforcement taxes.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, KDOR indicates enactment of the bill is expected to increase state tax receipts by about \$8.0 million annually, with most of that amount attributable to an increase in State General Fund receipts. KDOR also indicates enactment of the bill would require \$9,200 from the State General Fund to modify the automated tax system. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2388

As Amended by House Committee on Taxation

Brief*

HB 2388, as amended, would allow Kansas income taxpayers to carry forward net operating losses for 20 years, beginning with such losses incurred in tax year 2018. Current law provides for net operating losses to be carried forward for 10 years.

Background

The bill was introduced by the House Committee on Taxation at the request of Sprint. During the public hearing in the House Committee on March 18, representatives of Sprint and the Kansas Chamber appeared as proponents. Written-only proponent testimony was provided by a representative of CenturyLink. No other conferees appeared or submitted testimony.

The original bill also contained provisions that would have allowed taxpayers to make elections to add certain bonus depreciation amounts to income, and to allow loss carryovers from prior years to offset up to 100 percent of taxable income (as opposed to 80 percent under current law). The House Committee on Taxation amended the bill on March 21 to remove these provisions.

Although a fiscal note on the amended version of the bill was not immediately available, a representative of the Department of Revenue stated before the House Committee that extension for new loss carry-forwards to up to 20 years

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would not be expected to impact State General Fund receipts until FY 2029.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2399

As Amended by House Committee on Taxation

Brief*

HB 2399, as amended, would extend the current sunset from July 1, 2019 to July 1, 2022 on a sales tax exemption for the Gove County Healthcare Endowment Foundation, Inc.

Background

The bill was introduced by the House Committee on Taxation at the request of Representative Johnson on behalf of Representative Hineman. In the House Committee hearing on March 19, 2019, Representative Hineman appeared as a proponent, explaining that extension of the exemption would help complete certain work at a local airport providing air ambulance service in a more cost-effective manner. No other testimony was provided.

The House Committee amended the bill to reduce the sunset extension to three years, rather than five years as in the bill, as introduced.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue indicates the bill would reduce state sales tax receipts by \$13,000, including \$10,900 from the State General Fund and \$2,100 from the State Highway Fund, in FY 2020. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

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SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2043

As Amended by House Committee on Taxation

Brief*

HB 2043, as amended, would require the Kansas Insurance Department, Kansas Department of Commerce, and Kansas Department of Revenue to periodically present to the appropriate Senate and House committees a review of certain tax credits, incentives, and sales tax exemptions.

Kansas Insurance Department Review Schedule

The bill would require the Commissioner of Insurance, on or before February 1 of each year, to present to the Senate Committee on Financial Institutions and Insurance and the House Committee on Insurance a review of the following tax credits, incentives, and sales tax exemptions, by year:

- In 2020, employee salary credits, business investment credits, and the Kansas Insurance Department Service Regulation Fund Credit;
- In 2021, the Health Insurance Association Assessment Credit, the Small Insurance Company Credit, and the Property and Casualty Insurance Guaranty Association Credit; and
- In 2022, the Fire Fighters Relief Fund Credit, the Fire Marshal Credit, the Life and Health Insurance Guaranty Association Credit, and the Disabled Accessibility Credit.

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Kansas Department of Commerce Review Schedule

The bill would require the Secretary of Commerce, on or before February 1 of each year, to present to the Senate Committee on Commerce and the House Committee on Commerce, Labor and Economic Development a review of the following tax credits, incentives, and sales tax exemptions, by year:

- In 2020, Sales Tax and Revenue (STAR) Bonds, the High Performance Incentive Program, and venture capital investment credits;
- In 2021, the Promoting Employment Across Kansas (PEAK) Act, Job Creation Fund expenditures, venture capital investment credits, and local seed capital pool investment credits, and
- In 2022, Rural Opportunity Zone Credits and student loans paid, Angel Investor Credits, and Individual Development Account Program Credits.

Kansas Department of Revenue Review Schedule

The bill would require the Secretary of Revenue, on or before February 1 of each year, to present to the Senate Committee on Assessment and Taxation and the House Committee on Taxation a review of the following tax credits, incentives, and sales tax exemptions, by year:

- In 2020, the Adoption Credit, the Earned Income Tax Credit, the Research and Development Credit, and property tax exemptions;
- In 2021, the Business and Job Development Credit, the Historic Preservation Credit, the Film Production Credit, and sales tax exemptions;

- In 2022, the Community Service Contribution Credit, the Environmental Compliance Credit, the Assistive Technology Contribution Credit, and the Low-Income Student Scholarship Credit, and
- In 2023, the tax credit on food purchases, the Telecommunications Property Tax Credit, and the Higher Education Differed Maintenance Credit.

The State Historical Society would assist the Kansas Department of Revenue with the presentation on the Historical Preservation Credit.

Presentation and Report Requirements

The bill would require the presentations by the Kansas Insurance Department, Kansas Department of Commerce, and Kansas Department of Revenue to include:

- A description of the incentive, its history, and its goals;
- An assessment of the incentive's design and administration; and
- An estimate of the incentive's economic and fiscal impact.

After the presentations by the Kansas Insurance Department, Kansas Department of Commerce, and Kansas Department of Revenue, the Senate and House committees would report to the Kansas Legislature a summary of each committee's findings, conclusions, and recommendations. The bill would require the committees' reports to be published on each respective agency's website.

Background

The bill was introduced by Representative Gartner.

In the hearing held on January 30, 2019, by the House Committee on Taxation, Representative Gartner testified as a proponent, stating evaluation is a proven way to improve the effectiveness of incentives. A representative of the Kansas Center for Economic Growth submitted written-only proponent testimony, outlining the three steps that should be used to evaluate tax incentives.

No opponent or neutral testimony was provided.

The House Committee amended the bill to:

- Allow for unspecified or obsolete credits to be added or excluded, as requested by committee chairpersons; and
- Authorize the Kansas Historical Society to assist the Kansas Department of Revenue in the presentation of a Historical Preservation Credit.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, Legislative Administrative Services (LAS) indicated the bill would have a negligible fiscal effect on LAS to produce reports to summarize each committee's findings, conclusions, and recommendations. The Kansas Department of Commerce, Kansas Department of Revenue, and Kansas Insurance Department indicated the bill would have a negligible fiscal effect on each respective agency.

SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2093

As Recommended by House Committee on
Taxation

Brief*

HB 2093 would provide a sales tax exemption for all sales of gold, silver, and numismatic coins; palladium, platinum, gold, or silver bullion; and currency.

Background

The bill was introduced by the House Committee on Taxation at the request of Representative Eplee.

During the hearing in the House Committee on February 6, the owner of Dean Schmidt Rare Coins and Atchison Rare Coin Company appeared as a proponent, noting a number of other states extend sales tax exemptions to sales of gold and silver bullion. Written-only opponent testimony was submitted by a representative of the Kansas Policy Institute. No neutral testimony was provided.

According to the fiscal note provided by the Division of the Budget, the Department of Revenue indicates the bill would be expected to reduce FY 2020 receipts by about \$0.008 million. Of this amount, approximately \$0.007 million would be attributable to a reduction in State General Fund receipts and \$0.001 million would be attributable to a reduction in State Highway Fund receipts. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.

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SESSION OF 2019

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2212

As Amended by House Committee on Taxation

Brief*

HB 2212, as amended, would clarify the Multistate Tax Compact (Compact) under Kansas statutory provisions relative to the definition of business income for corporation income tax purposes.

The bill would clarify, relative to tax year 2019 and thereafter, the Compact's provisions are supplemental to the Kansas Income Tax Act (KITA) and are not available as an alternative method of allocating and apportioning business income. The bill would state that should a conflict between the Compact and KITA be determined, KITA would apply.

Additional amendments to the Compact would clarify only the net gain from the sales of certain business assets could be included in the sales factor of the multistate business income distribution formula, and allocable non-business income would be limited to the total non-business income received in excess of related expenses allowed as deductions.

The bill would clarify the Compact does not provide a taxpayer an election for any separate alternative methodology relative to the determination of business income under the functional test utilized in KITA.

Finally, the bill would prohibit taxpayers from filing amended returns for tax years 2008 through 2018 claiming that an election had existed under the Compact or that certain

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provisions of the Compact had been inconsistent with KITA relative to the determination of business income.

Background

The bill was introduced by the House Committee on Taxation at the request of the Department of Revenue (Department). A representative of the Department appeared as the only proponent during the House Committee hearing on February 12. During the hearing, the representative explained legislation enacted in 2008 had reduced corporation income tax rates but broadened the base under KITA by replacing the transactional test for the determination of business income with the functional test. The conferee further explained litigation recently has been filed in a number of states, suggesting the Compact's provisions provide flexibility in the determination of business income that somehow control over more specifically enacted state law, and many millions of dollars in refunds potentially could be sought if such litigation were to be filed in Kansas. The conferee added that since the change to KITA in 2008, the assumption has been the churning of investment capital was not to be included in the sales factor of the multistate formula.

No neutral or opponent testimony was provided.

The House Committee adopted a technical amendment, which was suggested by the Department representative.

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department indicates the bill would have no direct fiscal effect; however, it has the potential to prevent large revenue losses if taxpayers were able to assume an alternative set of apportionment rules has been available under the Compact since 2008. Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2020 Governor's Budget Report*.