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MEMORANDUM

To: Chairman Olson
Members of the Senate Committee on Federal and State Affairs

From: The Office of Revisor of Statutes

Date: February 7, 2022

Subject: SB 375 – The Kansas Housing Investor Tax Credit Act.

Senate Bill No. 375 (SB 375) would enact the Kansas Housing Investor Tax Credit Act (Act). The Act would provide a tax credit against a qualified taxpayer's income or privilege tax liability beginning in tax year 2022.

The Act would be administered by the Secretary of Commerce (Secretary). A qualified taxpayer under the Act would be either the qualified housing project building or developer or a qualified investor in the project. A "qualified housing project" is defined as a housing project in certain cities and counties for single-family or multi-family residential dwellings, including manufacture and modular homes with a permanent foundation. A "qualified housing project" does not include any "qualified low-income housing project" as defined in 26 U.S.C. § 42, which provides tax credits for low-income housing. A qualified housing project can only be located in a city with a population of less than 70,000 or a county with a population of less than 75,000.

To qualify for tax credits under the Act, the project builder or developer must apply to the Secretary for designation of the project as a qualified housing project. Upon approval of the application, the Secretary will enter into an agreement with the project builder or developer that will include progress reports by the builder or developer, access to the project and financial records by the Secretary, and repayment of tax credit amounts if there is a loss of designation.

The amount of the tax credit would be determined by the Secretary in an amount up to \$30,000 for each residential unit in the project up to a maximum of 40 units, or 30% of the total cost of the project, whichever is less. For qualified investors, the tax credit amount is also limited to the amount of the investor's cash investment. The aggregate annual limit on the amount of tax credits that may be allocated under the Act is \$18,000,000 per fiscal year. However, the

Secretary may carry forward any portion of that amount that is not allocated during a fiscal year and allocate such amount in subsequent fiscal years.

The tax credit may be carried forward for up to 4 years if there is insufficient tax liability to use the full tax credit amount. If the taxpayer has no tax liability, then the full amount of the tax credit may be transferred to another taxpayer. The transfer must be for the full amount and may only be performed once. No portion of the tax credit may be refunded to any taxpayer.

If a qualified housing project loses its designation as such after notice is provided to the project builder or developer and an opportunity to cure the deficiencies is provided, the project builder or developer shall enter into a repayment agreement with the Secretary to repay the amount of tax credits allocated to such builder or developer. Any qualified investor who is not the project builder or developer shall not be required to repay any tax credit allocated to such investor.

The Secretary is directed to monitor and oversee compliance with the Act. Additionally, the Secretary will submit an annual report by January 31st to the Governor and the standing committees on commerce in both the House of Representative and the Senate. The report shall include the total cash investments in qualified housing projects, the estimated number of jobs facilitated by qualified housing projects, and the estimated multiplier effect on the Kansas economy of such cash investments.

If enacted, SB 375 would become effective on July 1, 2022.