

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 309

As Amended by Senate Committee on Ways
and Means

Brief*

SB 309, as amended, would create the Fixing Instant Revenue Shock for Taxpayers Fund (Fund) and the Local Extraordinary Needs Fund (Needs Fund) and abolish the Local *Ad Valorem* Tax Reduction Fund.

The Fund would be administered by the State Treasurer and would be used solely to reimburse cities, counties, and other local taxing districts for loss of compensating use and sales tax due to the enactment of legislation. The bill would require a transfer of \$220.0 million from the State General Fund (SGF) to the Fund on July 1, 2023.

The bill would require the State Director of Taxation, Department of Revenue, to be responsible for certifying to the State Treasurer the impact of any legislation on sales and compensating use tax receipts. The State Treasurer would reimburse the local taxing entities for the amount certified. A copy of all such certifications would be provided to the Directors of the Budget and Legislative Research. The State Treasurer would recapture any such transfers from local taxing entities not compliant with KSA 79-2988, the property tax revenue neutral rate.

The bill would also create the Needs Fund and would require a transfer of \$50.0 million from the SGF to the Needs Fund. The bill would require all expenditures from the Needs Fund to be for the purpose of providing grants to cities and counties for capital expenditure projects approved by the

*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>

Joint Committee on Local Extraordinary Needs Grants (Joint Committee) that would be established by the bill.

The Joint Committee would be comprised of ten members, five appointed by the President of the Senate and five appointed by the Speaker of the House. The bill would require the State Treasurer to forward grant applications received from the local taxing districts to the Joint Committee, provided the entity is compliant with KSA 79-2988, the property tax revenue neutral rate. The Joint Committee would consider such grant applications and could approve the grants, provided no single approval exceeds \$2.0 million.

The bill would also abolish the Local *Ad Valorem* Tax Reduction Fund and any and all references to this fund in the *Kansas Statutes Annotated*.

Background

The bill was introduced by the Senate Committee on Ways and Means at the request of Senator Masterson.

Senate Committee on Ways and Means

In the Senate Committee hearing, **proponent** testimony was provided by Senator Masterson, who stated the Fund is intended to compensate local taxing districts for lost revenue if SB 248 would be enacted. The bill would expand the Governor Kelly's recommendation to eliminate the state sales tax on food and to also eliminate the local sales tax on food. The Senator further stated the Needs Fund is intended to assist local communities in capital purchases for projects that have been indefinitely delayed.

Neutral testimony was provided by a representative of the League of Kansas Municipalities, who acknowledged the testimony of both the proponent and opponents.

Opponent testimony was provided by representatives of the City of Olathe, Kansas Association of Counties, Kansas County Commissioners Association, and Sedgwick County Commission, who generally stated the State of Kansas would not provide funding for the Fund if there was an economic downturn. The opponents also stated the Fund was subject to annual appropriation, and the Legislature cannot bind future legislatures to a decision on funding.

Written-only opponent testimony was provided by representatives of the Cities of Garden City and Overland Park, Kansas Legislative Policy Group, Shawnee County, and Washburn University.

The Senate Committee on Ways and Means amended the bill to add non-city or county local taxing districts and Washburn University to the list of entities with the authority to request funding from both funds.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, would reduce SGF revenues by a total of \$270.0 million in FY 2024 by authorizing transfers from the SGF of \$220.0 million to the Fund and \$50.0 million to the Needs Fund.

According to the State Treasurer, enactment of the bill would require expenditures of \$93,000 from the State Treasurer Operating Fund beginning in FY 2024, including expenditures for salaries and wages and overhead expenses for new Program Administrator 1.0 FTE position to manage these two new programs.

According to Legislative Administrative Services, enactment of the bill would require additional expenditures of \$26,878 from the SGF for salaries and wages for legislators and committee assistants.

According to the League of Kansas Municipalities and Kansas Association of Counties, enactment of the bill has the potential to provide additional resources to local governments, to restore local retail sales and compensating use tax revenue lost due to the enactment of legislation passed by the Legislature in FY 2024. However, this funding would only be for one year and would create a 12-month delay in cities and counties from receiving this funding.

If local governments are prohibited from collecting sales tax on food and food ingredients, overall local sales tax collections are estimated to be reduced by as much as 15 percent. Some cities and counties with a lack of retail diversification may see local sales tax reductions of over 35 percent. The lack of dedicated sales tax funding has the potential to jeopardize bond payments, including STAR bonds, and the funding of projects and services funding directly from local sales taxes.

If funding from the Fund is not provided beyond FY 2024, then local governments would likely increase property tax mill levies or reduce services. However, the amount needed to restore to cities and counties local retail sales and compensating use tax revenue lost due to the enactment of legislation passed by the Legislature is unknown. The bill also has the potential to provide cities and counties up to \$50.0 million in FY 2024 for capital expenditure projects from the new Needs Fund.

Fixing Instant Revenue Shock for Taxpayers Fund; Local Extraordinary Needs Fund; State Treasurer; Joint Committee on Local Extraordinary Needs Grants; Legislature; sales tax; food; local grants; LAVTR