

SESSION OF 2022

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2239**

As Agreed to March 31, 2022

**Brief\***

Senate Sub. for HB 2239 would amend law related to property tax, income tax, and sales tax.

The bill would modify revenue neutral rate notice and hearing procedures and provide for taxpayer complaint procedures; increase the residential property tax exemption from the uniform statewide school finance levy; specify the classification of land used by zoos, used incidentally by certain agritourism activities, and the federal Grassland Conservation Reserve Program; create a property tax exemption for antique utility trailers; allow for the proration of certain personal property taxes; expand the authority of county commissions to abate property taxes for disaster-destroyed property; and modify the definition of telecommunications machinery and equipment for purposes of property tax exemption.

The bill would enact the SALT Parity Act; provide an income tax credit for certain contributions to technical and community colleges; enact aviation, aerospace, and short-line railroad infrastructure tax credits; enact a teacher classroom supplies tax credit; provide for an income tax checkoff for contributions to Kansas state historic sites; allow for refund claims pursuant to the Homestead Property Tax Refund Program based on tax growth from a base year; extend the Rural Opportunity Zones program; modify the research and development tax credit; and allow for an additional personal exemption for certain disabled veterans.

The bill would create a sales tax exemption for agricultural fencing; enact the Gage Park Improvement Authority Act; exclude separately stated shipping and handling charges from sales tax; repeal the sunset of the tax exclusion for motor vehicle manufacturer rebates; authorize a countywide sales tax in Wilson County; validate a sales tax election in the city of Latham; and require certain ballot language for countywide retail sales tax elections.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

## **Property Tax**

### **Revenue Neutral Rate Changes**

The bill would allow taxpayers owning property within a taxing subdivision, or their duly authorized representatives, to file complaints with the Board of Tax Appeals showing that a taxing subdivision did not comply with the notice and hearing and budget adoption provisions of the revenue neutral rate law. Upon the filing of a complaint, the governing body of the taxing subdivision would be required to provide evidence demonstrating, by a preponderance of the evidence, the validity of any challenged tax levy. If the Board of Tax Appeals finds the taxing subdivision did not comply with the revenue neutral rate requirements, it would be directed to order refunds of property taxes paid or a reduction of taxes levied for taxes collected or levied in excess of the amount generated by the revenue neutral rate. The Board of Tax Appeals would be required to provide a form for the filing of such complaints and would not be permitted to charge a filing fee for any such complaints.

The bill would direct county clerks to reduce the amount of property taxes to be levied by taxing subdivisions to the amount resulting in the taxing subdivision's revenue neutral rate if the governing body of the taxing subdivision does not comply with the notice and hearing and budget adoption procedures required by the revenue neutral rate law.

The bill would require the revenue neutral notice to include the percentage by which the proposed property tax rate exceeds the revenue neutral rate.

The bill would require the vote approving a resolution or ordinance to exceed the revenue neutral rate to be a roll call vote. The bill would require a copy of the resolution or ordinance to exceed the revenue neutral rate and the roll call vote to be included in the adopted budget filed with the county clerk and Director of Accounts and Reports, and the bill would require such information to be published on the website of the Department of Administration.

The bill would require budgets of taxing subdivisions filed with the Director of Accounts and Reports to be filed on or before December 31 of each year. The Department of Administration would be required to make such budget documents and revenue neutral rate documents available to the public on the Department of Administration's website via a conspicuous link on the front page of the Department's website.

The Department of Administration would also be required to annually provide a list of taxing subdivisions by county with information concerning the revenue neutral rate of each taxing subdivision, whether the taxing subdivision held a hearing to exceed its revenue neutral rate, the tax rate resulting from the adopted budget, and the percent change between the revenue neutral rate and the tax rate for each taxing subdivision.

The bill would provide that school districts would be deemed to have not exceeded their revenue neutral rate in the event the revenue in excess of the prior year amount was solely attributable to increased revenue from the 20 mill statewide school finance levy.

### *Residential Property Tax Exemption*

The bill would increase the amount of the residential exemption from the 20 mill uniform statewide school finance property tax levy from \$20,000 of valuation to \$40,000 of valuation beginning in tax year 2022 and provide for the amount to be increased in future tax years according to the average percentage change in statewide residential real property for the preceding 10 tax years.

### *Zoo and Agritourism Land Classification*

The bill would provide that land utilized by zoos holding a class C exhibitor license issued by the U.S. Department of Agriculture and land devoted to the production of plants, animals or horticultural products that is incidentally used for agritourism activity, which would be defined by the bill, would be classified as land devoted to agricultural use for purposes of property taxation.

### *Grassland Conservation Reserve Program Land Classification*

The bill would specify that, beginning in tax year 2023, all land devoted to agricultural use that is subject to the federal Grassland Conservation Reserve Program shall be classified as grassland for property tax purposes.

### *Antique Utility Trailers*

The bill would create a property tax exemption beginning in tax year 2023 for antique utility trailers used exclusively for personal use and not for the production of income. The bill would define such trailers as 35 years old or older with an empty weight of 2,000 pounds or less and a gross weight of 8,000 pounds or less.

### *Personal Property Tax Proration*

The bill would provide the taxable value of personal property acquired or sold after January 1 and prior to September 1 of any taxable year to be prorated based upon the number of months, or majority portion thereof, the property was owned during the year divided by 12 months.

Property acquired on or after September 1 would not be subject to tax for the current year.

This provision would only apply to property taxed pursuant to Class 2, Subclass 6 under Article 11, Section 1 of the *Kansas Constitution*.

### *Disaster-destroyed Property Tax Abatements*

The bill would broaden the authority of county commissions to abate property taxes for all buildings and agricultural improvements listed as real property. County commissions would have the option to abate taxes in situations where such property has been damaged in a gubernatorial-declared disaster and restoration costs would equal or exceed 50 percent of pre-

damage market value. An application for an abatement would be required to be filed by December 20 of the year after the natural disaster.

Current law provides for comparable authority for residential homestead properties.

These provisions of the bill would be retroactive to tax year 2019. For natural disasters occurring in 2019 or 2020, applications would be permitted until December 20, 2022.

The bill would also permit county commissions to consider any budgetary restraints of the county or taxing subdivision in evaluating applications for such abatements. Current law limits the consideration to budgetary restraints arising from the event or occurrence declared a disaster by the Governor.

#### *Telecommunications Equipment Inventory and Work-in-Progress*

The bill would define telecommunications machinery and equipment to include machinery and equipment placed in inventory or work-in-progress for purposes of the telecommunications machinery and equipment property tax exemption.

### ***Income Tax***

#### *SALT Parity Act*

The bill would enact the SALT Parity Act (Act) providing certain pass-through entities (entities) with the option of paying state income taxes at the entity level rather than being paid by the individual owners of the pass-through entities.

The Act, which would apply for tax year 2022 and thereafter, would require entities to make the election to be subject to tax on a return filed by the entity, which would be binding on all owners of the entity.

Entities electing to be subject to the tax would pay a tax of 5.7 percent on the sum of each resident owner's distributive share of the entity's income and each nonresident owner's distributive share of the entity's income attributable to the State.

Entities electing to be subject to the tax would be treated as corporations for purposes of estimated tax payments, but would be subject to penalties for underpayment of estimated tax during the first year of election. Any credits allowed for the entities, other than credits for taxes paid to other states, would be required to be claimed by the electing entity.

Excess tax credits and carried forward net operating losses would be required to be carried by electing entities and could not be claimed by entity owners except in the case when an election by an entity to be subject to tax at the entity is not made or not allowed.

Individual owners of electing entities would not be separately or individually liable for entity tax and would be entitled to a credit against their individual income for their direct share of the tax imposed on the entity. Corporation owners of electing entities would be required to add back

their distributive share of the entities losses and subtract their distributive share of the entities gains in determining their Kansas taxable income.

Taxes paid by an electing entity to another state on income that is included in the Kansas adjusted gross income of a resident individual taxpayer would be considered taxes paid to the other state by the resident individual taxpayer for purposes of the credit for taxes paid to other states.

The bill would authorize the Secretary of Revenue to adopt rules and regulations necessary for the implementation of the Act and to require electing entities to furnish information necessary for the implementation of the Act.

#### *Technical College and Community College Contribution Credit*

The bill would provide for a non-refundable tax credit for donors to Kansas technical colleges and community colleges.

“Technical college,” as defined by the bill, would include the Flint Hills, Manhattan Area, North Central Kansas, and Salina Area technical colleges, in addition to the Washburn University Institute of Technology and the Wichita State University Campus of Applied Sciences and Technology.

Contributions to a Kansas technical college or community college for capital improvements, deferred maintenance, or technology or equipment purchases would be eligible for a 60 percent non-refundable credit against:

- Income tax;
- Insurance premium tax and privilege fees; or
- Financial net income privilege tax.

The credit would have an annual limit of \$250,000 for each taxpayer, not to exceed \$500,000 for any one technical college or community college. The total annual value of credits could not exceed \$5.0 million. Tax credits issued under the program would not be refundable or transferable.

Prior to the issuance of any credits under this tax credit program, the bill would require participating technical colleges and community colleges to develop a process for qualifying contributions as allowable deductions from federal adjusted gross income, in consultation with the Secretary of Revenue.

Technical colleges and community colleges would be required to deposit contributions to its capital outlay funds.

The program would apply to contributions made after July 1, 2022, and would sunset in tax year 2026.

### *State Historic Sites Checkoff*

The bill would require, beginning in tax year 2023, the individual income tax return form to contain a checkoff enabling taxpayers to make donations to Kansas state-owned historic sites in a specific amount (e.g., \$1, 5, 10, or another amount).

The bill would require the Department of Revenue (Department) to assign a historic site number to each state-owned historic site to enable taxpayers to select the site to receive the donation.

The bill would create the Kansas Historic Site Fund, which would be administered by the Department. The proceeds of any such donation would be deposited in the Kansas Historic Site Fund. The Department would be required to distribute the moneys in the fund to the historic site of the taxpayer's choice to be used for the operation, maintenance, and preservation of the site.

### *Short-line Railroad Infrastructure Credit*

The bill would create an income tax credit for any Class II or Class III railroad or any owner or lessee of rail siding located on or adjacent to a Class II or Class III railroad for tax years 2022 through 2031 equal to 50 percent of the qualified track maintenance expenditures paid or incurred during the taxable year for track located in the state of Kansas. Expenditures used to generate a federal tax credit or funded by a state or federal grant would not result in a credit.

The bill would limit the credit to \$5,000 per mile of track or per rail siding owned or leased within the state as of the close of the taxable year. A mile of track could be taken into account only once in each taxable year, and the total amount of statewide credits allowed for each taxable year would be limited to \$8.72 million.

Any unused credit could be carried forward for up to five taxable years. For the five taxable years immediately following the year for which the credits were allowed, the taxpayer earning the credits would be permitted to transfer the credits to any eligible customer or eligible vendor. The bill would require any transfer of credit to be made by written agreement and would require the agreement to be filed with the Department of Revenue within 30 days of the transfer.

The bill would define an eligible customer as a business that uses short-line railroads or railroad-related property within Kansas, that is served by a short-line railroad, or stores railcars on the short-line railroad. An eligible vendor would be defined as a person providing railroad-related services to the taxpayer earning the credits. Eligible customers and eligible vendors could not include Class I railroads.

The bill would prohibit the credit from being refundable.

The bill would require the Secretary of Revenue to annually certify the tax credit amount allowed for each eligible taxpayer and would authorize the Secretary of Revenue and Secretary of Transportation to adopt rules and regulations to administer the credit and verify the eligibility of taxpayer expenditures for purposes of the credit.

### *Aviation and Aerospace Tax Credits*

The bill would allow employers whose principal business activity involves the aviation sector to receive a nonrefundable income tax credit beginning in tax year 2022 for tuition or certain program-specific course-fee reimbursements paid to a full-time “qualified employee,” as defined by the bill, who has graduated from an accredited engineering or technology undergraduate or graduate degree program, an associate of applied science degree program, or a career technical program. This credit could be claimed if the qualified employee, within one year prior to or following the commencement of employment with a qualified employer, graduated from a qualified program. This credit would be capped at 50.0 percent of the total amount of tuition reimbursement paid and could be claimed each year, for up to the fourth year of employment with a qualified employer.

The bill would also create, beginning with tax year 2022, a nonrefundable tax credit for taxpayers for an amount equal to 10.0 percent of the compensation paid to qualified employees in each of the first five years of employment, not to exceed \$15,000 per year. The credits could not be carried forward. For the purposes of the bill, compensation would not include benefits or reimbursable expenses.

Additionally, the bill would create, beginning with tax year 2022, a nonrefundable tax credit for taxpayers who become qualified employees during the taxable year. Employees with income tax liability less than \$5,000 would be eligible to carry any unused credit forward for up to four additional tax years.

The bill would authorize the Secretary of Revenue to adopt rules and regulations to implement and administer the provisions of the bill. The Secretary of Revenue would be required to submit annual reports on the cost effectiveness of the program to the House Committee on Appropriations and the Senate Committee on Ways and Means, beginning with the 2023 Legislative Session.

No new tax credits would be issued or earned after tax year 2026.

### *Teacher Classroom Supplies Tax Credit*

The bill would create an individual income tax credit for public or private school teachers residing in Kansas equal to the taxpayer’s expenditures for school and classroom supplies during the tax year.

The credit would be effective beginning in tax year 2022 and would be limited to \$250 per year.

### *Homestead Property Tax Refund Claims*

The bill would provide for refund claims to be paid to claimants for the amount by which the claimant’s residential property tax exceeds the amount of the claimants property tax in the claimant’s base year.

The bill would define “base year” to be the year in which the claimant becomes eligible for a refund under the provisions, or 2021, whichever is later. If a claimant would become ineligible

for a refund, the claimant would continue to use the original base year if the claimant would later again be eligible for a refund.

Claimants would be required to be at least 65 years old or a disabled veteran, reside in a homestead with an appraised value of \$350,000 or less for the entire year, and have a household income of \$50,000 or less. The \$50,000 amount would be annually adjusted by the cost of living adjustment in Section 1(f)(3) of the Internal Revenue Code. Surviving spouses of eligible claimants would continue to be eligible unless they remarry. The \$350,000 limitation would only apply to the claimant's base year.

Claimants for refunds would be prohibited from requesting refunds under the existing Homestead Property Tax Refund or the Selective Assistance for Effective Senior Relief Credit programs.

#### *Rural Opportunity Zone Program*

The bill would extend the sunset on the ROZ student loan repayment program from July 1, 2023, to July 1, 2026. The bill would also extend the sunset on the income tax credit and reporting requirements for the Secretary of Commerce from January 1, 2024, to January 1, 2027.

#### *Research and Development Tax Credit*

The bill would increase the Research and Development Activities Tax Credit from 6.5 percent to 10.0 percent of qualified expenditures and allow the credit to be claimed by all income taxpayers (current law limits the credit to corporate income taxpayers).

The bill would allow for a one-time transfer of the credit in its entirety by a taxpayer without a current tax liability. The credit would be transferable to any person and could be claimed by that person as a credit against their state income tax liability in the year of the transfer. The transferred credit would be non-refundable, but could be carried forward until fully used.

This provision would be effective for tax years commencing after December 31, 2022.

#### *Disabled Veterans Additional Personal Exemption Allowance*

The bill would provide for veterans who have been honorably discharged and 100 percent disabled through military service to receive an additional personal exemption amount of \$2,250 from individual income tax beginning in tax year 2023.

## **Sales Tax**

### *Agricultural Fencing Sales Tax Exemption*

The bill would create a sales tax exemption for purchases necessary to reconstruct, repair, or replace a fence used to enclose agricultural land that was damaged or destroyed by wildfire, flood, tornado, or other natural disaster occurring on or after January 1, 2021.

In order to be eligible for the exemption, the property containing the fence would be required to be located within an area declared to be a disaster by the federal, state, or local government and the purchases would be required to be made within two years of the date of the applicable disaster declaration.

For applicable purchases already made, taxpayers would be entitled to a refund of sales tax upon provision of appropriate documentation.

Beginning July 1, 2022, the bill would exempt from sales tax all sales of tangible personal property and services necessary to construct, reconstruct, repair, or replace any fence used to enclose agricultural land.

### *Gage Park Improvement Authority*

The bill would also enact the Gage Park Improvement Authority Act (Act), providing for the Shawnee County Commission to submit a question to the voters of Shawnee County regarding the creation of a Gage Park Improvement Authority (Authority) and the imposition of a local sales tax to benefit Gage Park, the Topeka Zoo, and the Kansas Children's Discovery Center.

**Creation of Authority and imposition of tax.** The bill would authorize the Shawnee County Commission, after a public hearing and adoption of resolution, to submit to the voters of Shawnee County a question of the creation of the Authority and imposition of a sales tax of at least 0.2 percent and not more than 0.5 percent to benefit Gage Park, the Topeka Zoo, and the Kansas Children's Discovery Center. The bill would also require the Commission to submit the question to the voters upon the submission of a petition signed by Shawnee County voters numbering at least 5 percent of the number of Shawnee County voters voting in the most recent regular county election.

If a majority of voters vote in favor of the Authority and tax, the Authority would be created and the tax imposed. The tax would be administered by the Department of Revenue in the same manner as other countywide retailers' sales taxes, except the tax would not count towards Shawnee County's sales tax authority, and the entire proceeds of the tax would be deposited in the Gage Park Improvement Sales Tax Fund within the State Treasury and remitted at least quarterly to the Authority.

If a majority of the voters do not vote in favor of the Authority and the tax, the question could not be submitted to the voters again for a period of one year.

If the tax rate submitted to the voters is less than 0.5 percent, the Shawnee County Commission would be permitted to submit an additional question to voters at a later date to increase the sales tax rate up to 0.5 percent. If a majority of the voters do not vote in favor of the additional tax, the question could not be submitted to the voters again for a period of one year.

Any sales taxes enacted pursuant to the Act would remain in effect unless repealed in the same manner as the approval of the tax.

**Authority governance and operation.** The Authority would be governed by a board of seven residents of Shawnee County:

- The Director of Shawnee County Parks and Recreation, or designee;
- The Director of the Topeka Zoo, who may be the head of a nonprofit operator of the Topeka Zoo, or designee;
- The Director of the Kansas Children's Discovery Center, who may be the head of a nonprofit operator of the Kansas Children's Discovery Center, or designee;
- Two members appointed by the Topeka City Council; and
- Two members appointed by the Shawnee County Commission.

Members appointed by the Topeka City Council and Shawnee County Commission would serve three-year terms or until a successor is appointed, but could be removed by the appointing entity. The terms of the directors would last as long as the individual is in that position. Any vacancies would be filled in the same manner as the vacated member was appointed.

The board would be required to annually select a chairperson, vice chairperson, and secretary from its membership and would be required to meet at least quarterly in Shawnee County at a suitable location provided by the County.

A majority of the members of the board would constitute a quorum and no action could be taken by the board without a quorum present and a majority of members present voting in favor of the action.

**Authority powers and duties.** The Authority would distribute and spend the proceeds of the sales tax imposed pursuant to the Act. The proceeds of the first 0.2 percent sales tax would be distributed as follows:

- 22.0 percent to Shawnee County to be used for the benefit of Gage Park;
- 58.0 percent to the Topeka Zoo and directed to any nonprofit operator of the Topeka Zoo;
- 15.0 percent to the Kansas Children's Discovery Center and directed to any nonprofit operator of the Discovery Center; and
- 5.0 percent at the discretion of the Authority for the improvement, operation, and maintenance of Gage Park, the Topeka Zoo, and the Kansas Children's Discovery Center, community enrichment and outreach, children's educational programming, other items of public benefit and interest related to Gage Park, and the actual and necessary expenses of the members of the Authority in carrying out their duties.

The proceeds of any sales tax in excess of 0.2 percent would be used as determined by the Authority for the improvement, operation, and maintenance of Gage Park, the Topeka Zoo,

and the Kansas Children's Discovery Center, community enrichment and outreach, children's educational programming, other items of public benefit and interest related to Gage Park, and the actual and necessary expenses of the members of the Authority in carrying out their duties.

The Authority would have the power to sue or be sued, to enter into contracts, to solicit and receive donations and grants, and to adopt bylaws consistent with the Act.

The Authority would have all other necessary and incidental functions and duties consistent with Kansas law to effectuate its purposes provided by the Act. The Authority would be subject to dissolution in the same manner as its creation.

**Other provisions.** The bill would require Shawnee County to appropriate funds necessary to operate the Authority for the first six months following its creation, after which the Authority would be required to be financed by the sales tax provided by the Act. The Authority would be required to keep accounts and records of its transactions that would be audited periodically as directed by Shawnee County. The Authority would be required to prepare an annual report on its operations and transactions to be submitted to the Topeka City Council and Shawnee County.

The bill would also define relevant terms for the implementation of the Act.

#### *Shipping and Handling Charges*

The bill would exclude delivery charges that are separately stated on an invoice or similar document from the sales price for purposes of retail sales and compensating use tax.

#### *Motor Vehicle Rebates Sales Tax Exclusion Sunset Repeal*

The bill would repeal the June 30, 2024, sunset for an exclusion from sales tax of cash rebates granted by manufacturers to purchasers or lessees of new motor vehicles if such rebates are paid directly to retailers.

#### *Countywide Retail Sales Tax Ballot Proposition Language*

The bill would require the ballot proposition for any countywide sales tax to include information indicating whether the revenue from the sales tax would be subject to the statutory apportionment formula, whether the county would retain the entirety of the revenue pursuant to statute, or whether an interlocal agreement is entered into specifying the retention of the amount of revenue by the county.

#### *Atchison County Sales Tax Sunset*

The bill would require the termination of the countywide sales tax in Atchison County for joint law enforcement communications and solid waste disposal enacted pursuant to an election held on August 3, 1993, by June 30, 2024.

### *Wilson County Tax Authority*

The bill would allow Wilson County to impose, subject to voter approval, a countywide sales tax of up to 1.0 percent in quarter percent increments to finance county emergency medical and ambulance services. The proceeds of the tax would not be subject to apportionment to the cities within the county.

The tax would expire after ten years from the date first collected, but could be extended for additional periods not exceeding ten years, upon voter approval.

### *City of Latham Sales Tax Election Validation*

The bill would validate the city of Latham election held on November 2, 2021, for a measure to increase the city sales tax by 0.5 percent, for which notice was first published 20 days prior to the election, instead of 21 days.

### **Conference Committee Action**

The Conference Committee agreed to retain the provisions of Senate Sub. for HB 2239, as amended by the Senate Committee of the Whole enacting the SALT Parity Act, state historic sites checkoff, and technical and community college contribution credits, with modifications to the provisions concerning technical and community college contribution credits.

The Conference Committee further agreed to add the contents of Senate Sub. for HB 2597, with an amendment to the provision regarding antique utility trailers; HB 2724, as amended by the House Committee on Taxation; and HB 2719, concerning property tax.

The Conference Committee further agreed to add the contents of SB 282, as amended by the Senate Committee of the Whole related to aviation and aerospace credits, teacher classroom supplies tax credit, Homestead Property Tax Refund claims, and residential property tax exemption, with modifications to the refund claims and the tax exemption.

The Conference Committee further agreed to add the contents of SB 326, as amended by the House Committee on Taxation, regarding short-line railroad infrastructure credits; HB 2394, as amended by the House Committee on Taxation, regarding the research and development credit; and the provisions of HB 2237, as amended by the Senate Committee of the Whole, providing for an extension of the Rural Opportunity Zone Program.

The Conference Committee further agreed to add the contents of SB 318, as amended by the Senate Committee of the Whole, relating to disaster-destroyed agricultural fencing and property tax abatements and the contents of HB 2732, as amended by the House Committee on Taxation, regarding the Gage Park Improvement Authority.

The Conference Committee further agreed to add the contents of SB 327, regarding sales tax on shipping and handling charges; SB 403, regarding Wilson County sales tax authority; HB 2682, regarding the City of Latham; and provisions of Senate Sub. for HB 2316, regarding motor vehicle rebates.

The Conference Committee further agreed to add the contents relating to the disabled veterans personal exemption and the ballot language requirements for countywide retail sales tax elections.

## **Background**

### ***Senate Sub. for HB 2239***

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

### *House Committee on Taxation*

In the House Committee hearing on February 17, 2021, **proponent** testimony was provided by representatives of the Kansas Chamber of Commerce, T-Mobile, and the Wichita Regional Chamber of Commerce. The proponents stated a longer carry forward period would more effectively allow taxpayers to account for business expenses and remove a competitive disadvantage for job creation and capital investments in Kansas as compared with other states.

Written-only proponent testimony was provided by a representative of the Kansas Agribusiness Retailers Association, Kansas Grain and Feed Association, and Renew Kansas Biofuels Association and a representative of the National Federation of Independent Business.

No other testimony was provided.

The House Committee adopted an amendment to allow losses to be carried forward indefinitely, as opposed to 20 years as in the bill as introduced.

### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing on March 22, 2021, **proponent** testimony was provided by representatives of the Kansas Chamber of Commerce and T-Mobile.

Written-only proponent testimony was provided by a representative of the Kansas Agribusiness Retailers Association, the Kansas Grain and Feed Association, and Renew Kansas Biofuels Association, and a representative of the National Federation of Independent Business.

No other testimony was provided.

The Senate Committee amended the bill to insert provisions to establish the Golden Years Homestead Property Tax Freeze Program, which had been introduced as SB 76. The Senate Committee recommended the bill be passed as a substitute bill.

On March 16, 2022, the bill was withdrawn from the Senate Calendar and rereferred to the Senate Committee.

Upon rereferral, the Senate Committee removed the contents of the bill providing for indefinite carryforward of net operating losses (HB 2239), modified the Golden Years provisions (SB 76), and inserted the standard deduction provisions, historic hotel net operating loss provision (SB 430), SALT Parity Act (SB 495), and net operating loss carry back carry forward provision (SB 543).

*Senate Committee of the Whole*

The Senate Committee of the Whole amended the bill to insert the provisions regarding technical college and community college contribution credits, as amended to reduce the maximum credit per taxpayer (HB 2315); add a provision providing for a state historic site checkoff (SB 514); add exemptions for certain federal employment credit disallowances; and to adopt a technical amendment to the SALT Parity Act.

[*Note:* The provisions originating in HB 2239, SB 76, SB 430, and SB 543 were not retained by the Conference Committee.]

***SB 495 (SALT Parity Act)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of a representative of the Kansas Society of Certified Public Accountants.

*Senate Committee on Assessment and Taxation*

In the Senate Committee hearing on March 10, 2022, **proponent** testimony was provided by representatives of the Kansas Society of Certified Public Accountants, BKD, Kansas Chamber of Commerce, and the S Corporation Association, stating the bill would allow Kansas taxpayers to increase the amount of state taxes deducted at the federal level without reducing Kansas state revenues. Written-only proponent testimony was provided by representatives of the National Federation of Independent Businesses and Wichita Regional Chamber of Commerce.

No other testimony was provided.

The Senate Committee amended the bill to replace a subtraction modification approach with a credit for taxes paid approach. [*Note:* The Conference Committee retained this amendment.]

***HB 2315 (Technical College and Community College Contribution Credit)***

The bill was introduced by the House Committee on Taxation at the request of the Kansas Association of Technical Colleges.

*House Committee on Taxation*

In the House Committee hearing, **proponent** testimony was provided by representatives of the Kansas Association of Community College Trustees and the Kansas Association of Technical Colleges. The proponents stated Kansas technical colleges provide an outsized economic benefit to the state relative to the amount of funding they receive, and the bill would help them to have even more of a positive economic impact.

Written-only proponent testimony was provided by a representative of Washburn University.

No other testimony was provided.

*Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by representatives of Kansas Technical Colleges and the Kansas Association of Community College Trustees. Written-only proponent testimony was provided by a representative of Washburn University.

No other testimony was provided.

The Senate Committee amended the bill to include community colleges in the tax credit program, double the maximum credit amounts in the bill, reduce the percentage of the credit from 100 to 60, eliminate the refundability of the credit, and move the relevant dates back by one year. [Note: The Conference Committee retained these amendments.]

***SB 514 (State Historic Sites Checkoff)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson.

*Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Lecompton Historical Society, the Mine Creek Battlefield Foundation, and two private citizens, generally stating the donations would allow for improvements to state historic sites and improved travel and tourism marketing. Written-only proponent testimony was provided by Senator Francisco.

No other testimony was offered.

The Senate Committee amended the bill to authorize the Department of Revenue to administer the Kansas Historic Site Fund and distribute the donations to the sites specified by taxpayers. [Note: The Conference Committee retained this amendment.]

## **Senate Sub. for HB 2597**

HB 2597 was introduced by the House Committee on Transportation at the request of Representative Blex on behalf of the Kansas Department of Wildlife and Parks. As introduced, the bill regarded certain distinctive license plates.

The Senate Committee on Assessment and Taxation removed the contents of the bill, inserted the contents described above, and recommended a substitute bill be created. The contents described above originated in SB 433, SB 542, SB 554, SB 555, and SB 565. The background for those bills is provided below.

### ***SB 433 (Antique Utility Trailers)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Dietrich.

#### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by Senator Dietrich stating the bill would treat utility trailers consistently with certain other antique personal property and would have a limited fiscal impact. Written-only proponent testimony was provided by Senator Petersen.

No other testimony was provided.

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

### ***SB 542 (Revenue Neutral Rate Changes)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson.

#### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by representatives of the Kansas Chamber of Commerce and Kansas Policy Institute, stating the bill would provide for more effective reporting and enforcement of the revenue neutral rate provisions enacted by the 2021 Kansas Legislature.

**Opponent** testimony was provided by representatives of the City of Topeka and the Kansas County Commissioners Association, stating the bill may result in untimely resolution of complaints filed pursuant to the bill, putting local tax levies in jeopardy and stating the bill could invite complaints by individuals with no property in the taxing jurisdiction. Written-only opponent testimony was provided by the cities of Derby, Overland Park, and Prairie Village.

No other testimony was provided.

The Senate Committee amended the bill to limit the complaints under the bill to taxpayers owning property within the taxing jurisdiction or their duly authorized representatives. [Note: The Conference Committee retained this amendment.]

#### ***SB 554 (Zoo and Agritourism Classification)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson.

##### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by a representative of Tanganyika Wildlife Park stating the bill would treat property owned by exhibiting zoos comparable to that owned by breeding operations.

Opponent written-only testimony was provided by a representative of the League of Kansas Municipalities.

Neutral written-only testimony was provided by representatives of the Kansas Department of Commerce and Kansas Farm Bureau.

No other testimony was provided.

The Senate Committee amended the bill to specify the definition of agritourism. [Note: The Conference Committee retained this amendment.]

#### ***SB 555 (Personal Property Tax Proration)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson.

The Senate Committee amended the bill to remove provisions related to collection of unpaid municipal utility fees.

#### ***SB 565 (Grassland Classification)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson.

##### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by Senator Bowers and a representative of the Kansas Farm Bureau, stating the bill would correct an unintended consequence of evolving federal conservation programs. Written-only proponent testimony was provided by a private citizen.

No other testimony was provided.

***HB 2724 (Statewide School Finance Levy Revenue Neutral Rate Change)***

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

*House Committee on Taxation*

In the House Committee hearing, **proponent** testimony was provided by representatives of United School Administrators of Kansas, USD 204, USD 232, and USD 252, stating the bill would eliminate confusion for taxpayers by removing a mill levy outside of school district control from the school district revenue neutrality notices and hearings.

**Opponent** testimony was provided by a representative of the Kansas Policy Institute stating the bill would confuse taxpayers because it would not list all mill levies that might be exceeding the school district's revenue neutral rate.

No other testimony was provided.

The House Committee amended the bill to eliminate a provision providing that the 20 mill statewide school finance levy was exempt from revenue neutral rate provisions and replace it with the provision described above. [Note: The Conference Committee retained this amendment.]

***HB 2719 (Telecommunications Equipment Inventory and Work-in-Progress)***

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

*House Committee on Taxation*

In the House Committee hearing, **proponent** testimony was provided by a representative of Ideatek, stating the bill would resolve inconsistency in the way telecommunications assets are treated for property tax purposes. Written-only proponent testimony was provided by a representative of AT&T.

No other testimony was provided.

***SB 282 (Tax Credits)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Claeys.

### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by a representative of the Wichita Regional Chamber of Commerce. Written-only proponent testimony was provided by representatives of Cowley College, the Greater Wichita Partnership, the Kansas Chamber of Commerce, the Kansas Independent College Association, Spirit Aerosystems, and Textron Aviation. Proponents stated enactment of the bill would make Kansas more competitive in the aviation and aerospace manufacturing industries.

Written-only opponent testimony was provided by a representative of the Kansas Policy Institute.

No other testimony was provided.

### *Senate Committee of the Whole*

The Senate Committee of the Whole amended the bill to change the effective dates for the aerospace and aviation tax credits, to insert the provisions concerning homestead property tax refund claims, and to insert the contents of Senate Sub. for HB 2212; SB 431, as amended by the Senate Committee on Assessment and Taxation; and SB 520, as amended by the Senate Committee on Assessment and Taxation.

[*Note:* The contents of Senate Sub. for HB 2212 were not retained in by the Conference Committee.]

### ***SB 431 (Residential Property Tax Exemption)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Tyson.

In the Senate Committee hearing on the bill, written-only proponent testimony was provided by a representative of the Kansas Association of Realtors.

No other testimony was provided.

The Senate Committee amended the bill to reduce the exemption amount from \$100,000 to \$65,000 and to provide for future increases to the exemption amount based upon increases to Kansas residential real estate valuation.

### ***SB 520 (Teacher Classroom Supplies Tax Credit)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Holland.

In the Senate Committee hearing, **proponent** testimony was provided by a representative of the Kansas National Education Association, stating the bill would offset some of the classroom costs teachers are often required to pay with their own money. Written-only proponent testimony was provided by a private citizen.

No other testimony was provided.

The Senate Committee amended the bill to change the effective tax year from 2021 to 2022 and to remove a provision providing for the tax credit to be refundable. [Note: The Conference Committee retained these amendments.]

***SB 326 (Short-line Railroad Infrastructure Credit)***

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

*Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by representatives of Watco, the Cimarron Valley Railroad, and Mickelson & Company. The proponents stated enactment of the bill would result in increased investment in short-line railroad infrastructure and safer and more efficient rail service to rural rail customers.

Written-only proponent testimony was provided by representatives of the Kansas Agribusiness Retailers Association, Kansas Cooperative Council, Kansas Grain and Feed Association, and Western Kansas Development Organization.

No other testimony was provided.

The Senate Committee amended the bill to limit the recipients of transferred tax credits to eligible customers and eligible vendors. [Note: The Conference Committee retained this amendment.]

*House Committee on Taxation*

In the House Committee hearing, **proponent** testimony was provided by representatives of Watco and Mickelson & Company. Written-only proponent testimony was provided by representatives of the Cimarron Valley Railroad, Kansas Agribusiness Retailers Association, the Kansas Cooperative Council, the Kansas Grain and Feed Association, and the Western Kansas Development Organization.

**Opponent** testimony was provided by a representative of the International Association of Sheet Metal, Air, Rail, and Transportation Workers, stating the bill would add to railroad profits without ensuring the most important infrastructure projects are completed and could result in tax credits going to Class I railroads or foreign sovereign wealth funds.

No other testimony was provided.

The House Committee amended the bill to exclude Class I railroads from eligible customers and vendors who could receive transferred credits. [Note: The Conference Committee retained this amendment.]

### ***HB 2394 (Research and Development Tax Credit)***

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

#### *House Committee on Taxation*

In the House Committee hearing on the bill, **proponent** testimony was provided by representatives of the Chamber of Lawrence, the Greater Topeka Chamber of Commerce, and PROSOCO. The proponents generally said this bill would make research and development tax credits applicable to more types of businesses and would allow for further innovation and economic growth. Written-only proponent testimony was provided by representatives of the Greater Kansas City Chamber of Commerce, the Kansas Department of Commerce, and the Overland Park Chamber.

No other testimony was provided.

The House Committee amended the bill to make changes to date references throughout the bill.

### ***HB 2237 (Rural Opportunity Zone Extension)***

The bill was introduced by the House Committee on Financial Institutions and Rural Development at the request of Representative Kelly.

#### *House Committee on Financial Institutions and Rural Development*

In the House Committee hearing, **proponent** testimony was provided by Representative Kelly and the Executive Director of the Montgomery County Action Council. The proponents stated the bill is a precaution to ensure the continuance of the ROZ Program until other changes can be made through forthcoming legislation.

Written-only proponent testimony was provided by the directors and executive director of Gove County Economic Development, Greeley County Community Development, Kearny County Community Development, Republic County Economic Development, and Scott County Development Committee, Inc. Additional written-only proponent testimony was provided by representatives of the Kansas Hospital Association and League of Kansas Municipalities.

Neutral testimony was provided by the Legislative and Policy Director of the Department of Commerce, who provided a copy of the 2020 Annual Report on the ROZ Program. According to the report, 55 of the eligible 77 Kansas counties offer student loan repayment; 20 counties only offer the income tax waiver.

No other testimony was provided.

### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by Representative Kelly and representatives of the Kansas Department of Commerce and the Montgomery County Action Council. The proponents stated the bill is a precaution to ensure the continuance of the ROZ program until other changes can be made through forthcoming legislation.

Written-only proponent testimony was provided by the directors and executive director of Gove County Economic Development, Greeley County Community Development, Kearny County Community Development, Republic County Economic Development, and Scott County Development Committee, Inc. Additional written-only proponent testimony was provided by representatives of the Kansas Hospital Association and League of Kansas Municipalities.

No other testimony was provided.

The Senate Committee amended the bill to increase the sunset extension from two years to five years, to change the definition of rural opportunity zone, and to expand eligibility for the rural opportunity zones income tax credit. [Note: The Conference Committee retained the provision increasing the sunset extension and did not retain the other amendments.]

### *Senate Committee of the Whole*

The Senate Committee of the Whole amended the bill to add provisions related to the child day care tax credit and adopted a technical amendment to remove provisions of the bill that were previously enacted into law. [Note: The Conference Committee did not retain this amendment.]

### ***SB 318 (Disaster-destroyed Agricultural Fencing Sales Tax Exemption and Disaster Destroyed Property Tax Abatement)***

The bill was introduced by Senators Bowers, Billinger, and Tyson.

### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing on SB 318, **proponent** testimony was provided by Senator Bowers, representatives of the Kansas Livestock Association and the Russell and Ellsworth County Emergency Management Agency, and a private citizen. Proponents described the nature and extent of damage caused by wildfires in the state on December 15, 2021, and noted the cost to replace fencing that farmers and ranchers incur as a result of that damage. Proponents also noted that previously, Kansas had a similar temporary sales tax exemption in place, most recently in 2017 and 2018. Written-only proponent testimony was provided by the Kansas Attorney General and a representative of Kansas Farm Bureau.

No other testimony was provided.

The Senate Committee amended SB 318 to insert the contents of 2020 Special Session SB 2, as amended by the Senate Committee on Assessment and Taxation, concerning property

tax abatements for disaster-destroyed property, with an additional provision to provide for retroactive applications for abatements. [Note: The Conference Committee retained these amendments.]

#### *Senate Committee of the Whole*

The Senate Committee of the Whole amended SB 318 to clarify provisions concerning disaster-destroyed property tax abatements; to give county commissions broader authority to consider budgetary constraints in granting abatements; to expand the availability of the sales tax exemption to fencing destroyed by flood, tornado, or other natural disaster; to limit the eligibility for the exemption to areas where a disaster had been declared by some level of government; to define wildfire; and to create a sales tax exemption for all fencing materials and services used for enclosing agricultural land. [Note: The Conference Committee retained these amendments.]

#### *House Committee on Taxation*

In the House Committee hearing, **proponent** testimony was provided by representatives of the Kansas Farm Bureau and Kansas Livestock Association, stating SB 318 would provide sales tax relief to farmers and ranchers impacted by wildfires and also reduce the sales tax burden on farmers and ranchers constructing or repairing fencing. Written-only proponent testimony was provided by representatives of the Kansas Cooperative Council, Kansas Grain & Feed Association, Kansas Soybean Association, and Renew Kansas Biofuels Association.

Neutral testimony was provided by a representative of the Kansas Association of Counties.

No other testimony was provided.

The House Committee amended the bill to eliminate provisions concerning property tax abatements for disaster-destroyed property and creating a sales tax exemption for all fencing materials and services used for enclosing agricultural land and created a substitute bill.

#### ***HB 2732 (Gage Park Improvement Authority)***

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

#### *House Committee on Taxation*

In the House Committee hearing, **proponent** testimony was provided by Representative Patton, a representative of the Kansas Children's Discovery Center, and a Shawnee County Commissioner. Proponents stated the bill would authorize the submission of a question to the voters of Shawnee County to use a new financing and governing mechanism for several Shawnee County amenities. Written-only proponent testimony was provided by representatives of Advisors Excel, the City of Topeka, Friends of the Topeka Zoo, Security Benefit, and Shawnee County Parks and Recreation and a Topeka City Council member.

No other testimony was provided.

The House Committee amended the bill to specify the procedure for reducing or repealing the sales tax provided by the bill and to make a technical amendment. [Note: The Conference Committee retained this amendment]

### ***SB 327 (Shipping and Handling Charges)***

The bill was introduced by the Senate Committee on Taxation at the request of Senator Tyson.

#### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing on the bill, **proponent** testimony was provided by a private citizen. The proponent stated the bill would provide tax relief to consumers and eliminate a tax that many consumers do not realize they are paying.

No other testimony was provided.

### ***SB 403 (Wilson County Sales Tax Authority)***

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Fagg.

#### *Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by Senator Fagg and a representative of Fredonia Regional Hospital stating the bill would allow the local voters to determine the financing of emergency medical services in the county without imperiling other healthcare funding. Written-only proponent testimony was provided by representatives of Fredonia Regional Hospital, Kansas Association of Counties, Wilson County, and Wilson County Medical Center.

No other testimony was provided.

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

### ***HB 2682 (City of Latham)***

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

## *House Committee on Taxation*

In the House Committee hearing on the bill, **proponent** testimony was provided by Representative Blex. The proponent said this bill would remedy an error with the publication notice requirement for the election, which was published 20 days prior to the election rather than the required 21 days. The revenue generated by the tax would be used by the City of Latham to finance adequate public services for the city. Written-only proponent testimony was provided by representatives of the City of Latham and the League of Kansas Municipalities.

No other testimony was provided.

## **Fiscal Information**

The Department of Revenue estimates the bill would have the following effect on state receipts.

	(Dollars in Millions)		
	FY 2023	FY 2024	FY 2025
Homestead Refund Option	\$ (6.9)	\$ (14.0)	\$ (21.6)
Tech. and Comm. College Credit	(5.0)	(5.0)	(5.0)
Short-line Railroad Infrastructure Credit	(8.7)	(8.7)	(8.7)
Teacher Classroom Supplies Tax Credit	(10.4)	(10.4)	(10.5)
Disaster-destroyed Ag. Fencing	(3.4)	(2.2)	(2.2)
Motor Vehicle Rebate Sunset Repeal	-	-	(3.9)
Shipping and Handling Sales Tax	(4.0)	(4.0)	(4.0)
Aviation Tax Credits	(7.9)	(7.9)	(7.9)
Rural Opportunity Zones	-	-	(5.5)
Research and Development Credit	-	(0.9)	(0.9)
Disabled Vet. Personal Exemption	(0.3)	(0.9)	(0.9)
<i>Subtotal State General Fund</i>	<i>\$ (46.6)</i>	<i>\$ (53.0)</i>	<i>\$ (71.1)</i>
Disaster-destroyed Ag. Fencing	\$ (0.6)	\$ (0.4)	\$ (0.4)
Motor Vehicle Rebate Sunset Repeal	-	-	(0.8)
Shipping and Handling Sales Tax	(0.8)	(0.8)	(0.8)
<i>Subtotal State Highway Fund</i>	<i>\$ (1.4)</i>	<i>\$ (1.2)</i>	<i>\$ (2.0)</i>
Telecommunication WIP and Inventory	\$ (0.1)	\$ (0.1)	\$ (0.1)
Residential Property Tax Exemption	(42.8)	(44.5)	(46.3)
<i>Subtotal State School District Finance Fund</i>	<i>\$ (42.9)</i>	<i>\$ (44.6)</i>	<i>\$ (46.4)</i>
<b>Total All Funds</b>	<b>\$ (90.9)</b>	<b>\$ (99.8)</b>	<b>\$ (119.6)</b>

Additionally, the SALT Parity Act and personal property tax proration provisions are anticipated to have an indeterminate impact on state receipts. Provisions related to antique utility trailers, agricultural land classification, and disaster-destroyed property tax abatements are anticipated to have an indeterminate negative impact on state receipts. The anticipated fiscal effect of the sales tax exemption for disaster-destroyed agricultural fencing is unknown in years beyond FY 2023, but could reduce state receipts in future years, depending on the occurrence of natural disasters.

Provisions related to revenue neutral rate procedures, local sales tax, required sales tax ballot language, and the state historic sites checkoff program are expected to have no impact on state receipts.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Taxation; income tax; property tax; sales tax; credits; exemptions; local sales tax

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