

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 248

As Recommended by Senate Committee on
Assessment and Taxation

Brief*

SB 248 would create, effective January 1, 2024, a sales tax exemption for “healthy food” and would repeal the existing schedule of reduced state sales tax rates for food and food ingredients.

“Healthy food” would be defined to include fruits and vegetables, including fresh, canned, jarred, frozen, and dried; meat, poultry, and fish; eggs; milk, including whole, fat-reduced, nonfat, evaporated, dry, soy, and almond; cheese; yogurt; tofu; infant formula; infant cereal; infant food fruits, vegetables, and meats; juice; whole wheat or whole grain bread; corn or flour tortillas; pasta; brown rice, bulgur, oatmeal, and whole grain barley; breakfast cereals; beans and nuts; and peanut butter.

The bill would eliminate a provision in current law allowing for local sales and use taxes to apply to all sales of food and food ingredients.

The bill would eliminate a provision in current law providing for an increase of sales and use tax revenues to be deposited in the State Highway Fund from 17 percent to 18 percent on January 1, 2025.

*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

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

Senate Committee on Assessment and Taxation

In the Senate Committee hearing, **proponent** testimony was provided by Senator Masterson, who stated the bill would provide a true sales tax exemption for nutritional food and would facilitate broader tax reform opportunities.

Written-only proponent testimony was provided by a representative of Americans for Prosperity-Kansas.

Opponent testimony was provided by representatives of Fuel True, Kansas Appleseed Center for Law and Justice, Kansas Beverage Association, and Retail Grocers Association of Kansas and Missouri. The opponents generally stated the bill would be difficult for retailers to implement and could result in an effective sales tax increase for Kansans.

Written-only opponent testimony was provided by representatives of Greater Kansas City Food Policy Coalition, Harvesters, Kansas Chamber of Commerce, Kansas Food and Farm Coalition, Kansas Rural Center, National Confectioners Association, Queen's Price Chopper, and United Community Services of Johnson County and by a private citizen.

Written-only neutral testimony was provided by representatives of Economic Lifelines, Kansas Association of Counties, and Kansas Policy Institute.

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, the Department of Revenue indicates

enactment of the bill would reduce state receipts by \$284.4 million in FY 2024 and by \$119.1 million in FY 2025. The bill would have no fiscal effect on aggregate state receipts in years after FY 2025.

The change in disposition of revenue percentages would result in the State Highway Fund receiving reduced receipts of \$7.2 million in FY 2024, increased receipts of \$4.3 million in FY 2025, and reduced receipts of \$5.7 million in future years.

The Department of Revenue indicates enactment of the bill has the potential to place Kansas out of compliance with the Streamlined Sales and Use Tax Agreement and could imperil more than \$80.0 million state and local tax receipts received pursuant to that agreement.

The Kansas Association of Counties and League of Kansas Municipalities indicate the bill would reduce the amount of local sales and use taxes.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Taxation; sales tax; exemption; rate; food; healthy food