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Emily Fetsch, Director of Policy and Research
Kansas Center of Economic Growth
Verbal testimony in opposition to Senate Bill 22
House Taxation Committee

Dear Chairman Johnson and Members of the Committee:

Thank you for the opportunity to submit testimony in opposition to Senate Bill 22. The Kansas Center for Economic Growth (KCEG) is a project of Kansas Action for Children, a nonprofit, nonpartisan organization. KCEG conducts research and analysis to promote balanced state policies that help every Kansan prosper.

Last legislative session, the Kansas Senate passed Substitute for House Bill 2228. On its surface, the bill addressed issues from the federal tax plan passed in December 2017. However, it also included extremely fiscally irresponsible provisions that would have cost the state at least $494 million over the next five years. The Kansas House understood that Kansas cannot afford to forgo the lost revenue and rejected the bill.

This year, your committee is considering similar legislation that is risky, lacking in clarity, and fiscally irresponsible. Kansas cannot afford another tax experiment with unknown economic ramifications.

Senate Bill 22 is not a revenue-neutral bill. Its fiscal note is at least $187 million in the first year alone, of which only $50 million would go toward the itemized deductions component. Most of the cost would benefit multinational corporations.

The truth is, we don't know what the revenue effect of federal tax reform on Kansas will be.

We have yet to see the full impact of Senate Bill 30, the law that was passed in 2017 to end the Brownback tax experiment and put Kansas back on the road to fiscal recovery. We have yet to see the full impact of the federal Tax Cuts and Jobs Act of 2017 (TCJA).

We must wait and see the full effects of these two pieces of tax legislation before tinkering again with Kansas tax policy.

After eight years of decreased revenue and damage to the state, in part because of an underestimate of the impact of exempting LLCs from income tax, we must learn our lesson and only consider tax policy where there is a clear and consistent understanding of the long-term fiscal effects.

It is important for Kansas lawmakers to remember that, as the National Conference of State Legislatures pointed out in a presentation on federal tax law changes, "stuff rolls downhill." The Tax Cuts and Jobs Act will reduce federal revenues by $1.5 trillion over the next decade, and this will "impose fiscal constraints on the federal government and its ability to finance intergovernmental and other programs." Decreased federal revenue could result in less federal funding for states, where Kansas would need to fill in the funding gap to sustain programs.

Another unknown is the effect on the state Department of Revenue, as it will have to assume responsibilities in areas previously covered by the federal government, such as fraud monitoring, as a result of "decoupling" for individual filers.

The taxation is not new.

To move forward without SB 22 would not be adding a new tax to these corporations through repatriation or GILTI. According to the Department of Revenue, which testified before your committee on January 29, 2019:

> **Repatriation:** "The general consensus is that it is dividend income, and should be treated as such. The federal code deems these dollars to be dividends, and Kansas, as a rolling conformity state, does too. Kansas taxes this type of income, and has for years. Currently, existing Kansas statute includes the repatriated dollars in the Kansas tax base."
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> **GILTI:** "… the [Internal Revenue Code] treats these dollars pretty much as ordinary income. Kansas has always taxed ordinary income. Granted this is a new IRC section, but the general consensus among states and industry professionals is that these dollars are viewed on the federal level as ordinary income. As a

> rolling conformity state, Kansas also would view these dollars as ordinary income. So, it would not be unusual to tax this type of income if you so choose."

According to the November Consensus Revenue Estimate, it appears this income is already flowing into the state:

> "Corporation income tax receipts had been exceeding the previous forecast due not only to increasing profits, but also to the fact that certain repatriated dollars returned to the U.S. from off-shore locations under the provisions of the new federal law are also now subject to the Kansas income tax. To the extent that such monies will continue to be taxed at the federal level under the new Global Intangible Low-Taxed Income (GILTI) provisions, Kansas under current law is expected to receive additional revenues on an ongoing basis. Receipts from this source exceeded the final FY 2018 estimate by $62.4 million; and had been running $36.2 million above the prior FY 2019 estimate through October."

Our state has significant needs.

From enhanced funding for schools to investing in infrastructure, health care, early education, and thriving communities, we are on the road to recovery from former Gov. Sam Brownback's tax plan together. As we've repeated, that journey will take time.

Lawmakers should reject calls for additional risky tax changes and instead concentrate on the state's lengthy list of needs as Kansas recovers from years of failed tax policy.

Without clarity about the fiscal impact and with many competing demands on Kansas' budget, lawmakers should reinvest any revenue because of federal tax reform in our state's recovery from failed tax policy – not spend it on another reckless experiment.

Lawmakers should consider targeted tax policies.

In addition to the damage done to the budget during the Brownback tax experiment, tax code changes were made to try to make the math work. Deductions and tax credits were ended that helped working Kansans make ends meet. To help low-income Kansans, policymakers can return these effective credits into the tax code.

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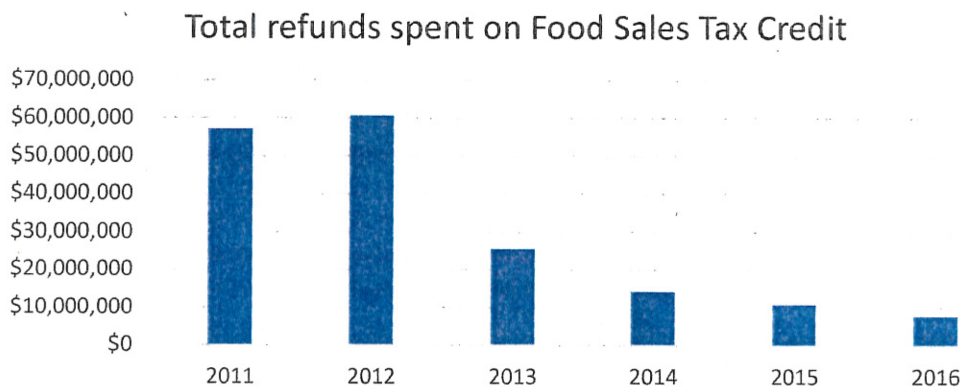
Lawmakers should examine how housing credits can assist low-income individuals and families. Property tax circuit breaker programs — such as the Homestead Property Tax Rebate for renters eliminated in 2013 — can provide much-needed financial assistance to individuals who pay a significant amount of their income toward housing. In 2017, some 17 states and the District of Columbia used circuit breakers, and 12 other states provided property tax credits to some low-income families based on their income.[1] Future programs could explore helping more Kansans by broadening eligibility requirements. In FY 2013, the Kansas Department of Revenue issued $37,586,043 in homestead refunds to 115,719 homeowners and renters.[2]

While Kansas currently has a food sales tax refund, the amount of the refund, along with the eligibility level, severely limits the number of beneficiaries. In 2013, the credit was made nonrefundable, which was coupled with changes in eligibility. These changes dramatically decreased the number of filers able to benefit. For those who continue to qualify, the credit is only $125 per person listed on the return. The current amount of the food sales tax credit does not provide substantial assistance to low-income families that are eligible. According to the official USDA, the weekly cost of a "thrifty" food plan for a family of four is $148.90. Increasing the amount of the refund, while also broadening who is eligible to receive the refund, would be a targeted and cost-effective solution to helping low-income, working, and senior Kansans achieve economic security.



Source: Kansas Department of Revenue, Division of Taxation. Tax Expenditure Reports 2012-2017.

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[1] Center of Budget and Policy Priorities.

[2] Kansas Department of Revenue, Division of Taxation. Taxation Expenditure Report-Calendar Year 2012.

If policymakers are committed to altering the state individual income tax, we urge them to consider increasing the standard deduction as an alternative to SB 22. Again, this measure would be more targeted, as well as simpler for taxpayers, tax preparers, and the Kansas Department of Revenue.

We advise lawmakers to oppose Senate Bill 22. Without a certain revenue source to pay for such costly changes, Kansas simply can't afford to do otherwise.

Thank you for the opportunity to voice our opposition to this bill, and please do not hesitate to contact me at emily@kac.org if you have any questions.