

SESSION OF 2022

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 339**

As Amended by Senate Committee on  
Assessment and Taxation

**Brief\***

SB 339, as amended, would amend law related to sales tax. The bill would contain provisions related to sales taxes on food, utilities, and separately stated delivery charges, as well as sales taxes collected by movie theaters.

***Sales Tax on Food***

The bill would provide for, beginning January 1, 2024, a state sales and use tax rate of zero percent on food and food ingredients.

Additionally, food and food ingredients would be added to the list of items expressly subject to sales taxes imposed by cities, counties, and Washburn University. However, cities and counties would be given the authority to exempt all such sales from the sales taxes levied by the city or county.

Food and food ingredients would include bottled water, candy, dietary supplements, food sold through vending machines, prepared food, and soft drinks.

***Sales Tax on Utilities***

The bill would expand, beginning July 1, 2023, the state sales and use tax rate of zero percent currently applied to residential and agricultural sales of gas, electricity, heat, propane gas, liquified petroleum gas, coal, wood, and other

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\*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>

fuel sources for the production of heat or lighting to all such sales.

Additionally, such sales would be added to the list of items expressly subject to sales taxes imposed by cities and counties. However, cities and counties would be given the authority to exempt all such sales from the sales taxes levied by the city or county.

### ***Movie Theater Sales Tax Collections***

The bill would permit a retailer in Kansas that collects sales tax on admission of viewing movies or films to retain the state portion of sales and use tax collected on sales of movie tickets and concessions sold on site from July 1, 2022, to June 30, 2024. Such retailers would be required to continue collecting and remitting the local portion of such sales and use taxes. The Department of Revenue would be required to provide appropriate forms for the sales tax retained by the retailer to be filed in conjunction with the retailer's sales tax return.

### ***Delivery Charge Sales Tax***

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.

### **Background**

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 offered by representatives of AARP of Kansas, Fuel True Independent Energy & Convenience, Kansas Association of Counties, Kansas Interfaith Action, Kansas Restaurant and Hospitality Association, Retail Grocers Association of Kansas and Missouri, and Sisters of Charity of Leavenworth. Proponents stated the bill would reduce the sales tax burden on those least able to pay and would treat all food equally. Written-only proponent testimony was provided by the City of Topeka, El Centro, the Greater Kansas City Chamber of Commerce, Greater KC Food Policy Coalition, Harvesters, Health Forward Foundation, Kansas Aggregate Producers Association, Kansas Association of Local Health Departments, Kansas National Education Association, Kansas Ready Mix Concrete Association, and a private citizen.

Neutral testimony was provided by representatives of Economic Lifelines, Kansas Action for Children, Kansas Coalition Against Sexual and Domestic Violence, Kansas Contractor's Association, League of Kansas Municipalities, Tobacco Free Kansas Coalition, and Washburn University. Written-only neutral testimony was provided by representatives of American Council of Engineering Companies of Kansas, Americans for Prosperity-Kansas, Kansas Appleseed Center for Law and Justice, Kansas Chamber of Commerce, Kansas Policy Institute, Kansas Society of Professional Engineers, and a private citizen.

**Opponent** testimony was provided by a representative of Kansas Farm Bureau, stating the bill would erode the state's retail sales tax base. Written-only opponent testimony was provided by the Department of Transportation.

The Senate Committee amended the bill by:

- Changing the effective date of the sales tax on food rate reduction from January 1, 2023, to January 1, 2024;
- Giving cities and counties the authority to exempt food from sales tax;
- Expressly providing for food and food ingredients to be subject to the sales tax imposed by Washburn University; and
- Inserting contents from SB 228 (Movie Theaters), SB 327 (Delivery Charges), and SB 359 (Utilities).

#### ***SB 228 (Movie Theaters)***

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

In the Senate Committee hearing, **proponent** testimony was provided by representatives of B&B Theatres, Mitchell Farms & Theatres, and Regal. Proponents stated the pandemic and associated business restrictions have been particularly hard on the movie theater industry as movie studios declined to release new movies through the latter parts of 2020 and early parts of 2021.

Written-only proponent testimony was provided by representatives of AMC Theatres and Theatre Owners of Mid-America.

Written-only neutral testimony was provided by a representative of the League of Kansas Municipalities.

#### ***SB 327 (Delivery Charges)***

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

In the Senate Committee hearing, **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 359 (Utilities)**

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

**Fiscal Information**

The Department of Revenue provided the following estimated fiscal impacts for the provisions of the amended bill.

	(In Millions)		
	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
<b>State General Fund</b>			
Food Sales Tax Rate	\$ -	\$ (273.2)	\$ (668.2)
Food Sales Tax Credit Sunset	-	-	10.3
Utilities Sales Tax	-	(46.8)	(52.1)
Movie Theaters	(5.3)	(5.8)	(0.5)
Delivery Charges	(4.0)	(4.0)	(4.0)
<i>SGF Subtotal</i>	\$ (9.3)	\$ (329.8)	\$ (724.8)
<b>State Highway Fund</b>			
Food Sales Tax	\$ -	\$ (52.6)	\$ (128.7)
Utilities Sales Tax	-	(9.0)	(10.0)
Movie Theaters	(1.0)	(1.1)	(0.1)
Delivery Charges	(0.8)	(0.8)	(0.8)
<i>SHF Subtotal</i>	\$ (1.8)	\$ (63.5)	\$ (139.6)
<b>All Funds Total</b>	<b>\$ (11.1)</b>	<b>\$ (393.3)</b>	<b>\$ (864.4)</b>

Taxation; sales tax; food sales tax; utilities; movie theaters; delivery charges