

SESSION OF 2023

SUPPLEMENTAL NOTE ON SENATE BILL NO. 126

As Amended by Senate Committee on
Assessment and Taxation

Brief*

SB 126, as amended, would create an income tax credit for certain residential clean energy expenditures and provide for income tax subtraction modifications associated with certain net operating losses and federal tax credit disallowances.

Residential Clean Energy Tax Credit

The bill would create, beginning in tax year 2023, an individual income tax credit for Kansas resident taxpayers equal to 100 percent of the amount of federal clean energy credits related to qualified solar electric, solar water heating, and small wind energy property expenditures for a dwelling in Kansas.

The credit would be non-refundable, but any portion of the credit exceeding the taxpayer's income tax liability could be carried forward indefinitely.

Net Operating Loss Subtraction Modification

The bill would create a subtraction modification allowing taxpayers who carried back federal net operating losses in tax year 2018 through 2020 pursuant to the federal CARES Act to subtract such amounts from their income for purposes of determining Kansas adjusted gross income. Taxpayers

*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>

would be permitted to carry forward such net operating loss for up to 20 years if the amount exceeds the Kansas adjusted gross income of the taxpayer.

The bill would extend the deadline for eligible taxpayers to file amended returns for tax years 2018 through 2020 until April 15, 2025.

***Federal Tax Credit Disallowance Subtraction
Modifications***

The bill would enact subtraction modifications in determining Kansas adjusted gross income equal to 25.0 percent of the amount of federal disallowance related to the Work Opportunity Tax Credit and similar credits under section 280C of the federal Internal Revenue Code and, effective for tax year 2020 and all years thereafter, 25.0 percent of the amount of federal disallowance related to the Employee Retention Tax Credit.

Background

The Senate Committee on Assessment and Taxation inserted the contents of SB 40 and SB 81 into SB 126 while retaining the contents of SB 126. Background information for each bill may be found below.

SB 40 (Net Operating Loss Subtraction Modification)

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 BridgeBuilder Tax and Legal Services and the National Federation of Independent

Businesses. Proponents stated the bill would allow Kansas taxpayers to benefit from 2020 changes to the federal tax code.

No other testimony was provided.

SB 81 (Federal Tax Credit Disallowance Subtraction Modifications)

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 the Kansas Restaurant and Hospitality Association, generally stating the bill would allow employers who benefit from federal tax credits to still be able to deduct otherwise deductible expenses on their state income taxes.

No other testimony was provided.

SB 126 (Residential Clean Energy Tax Credit)

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 the Kansas Sierra Club, who stated the bill would spur home solar and wind installations in Kansas and would be positive for Kansas economically and environmentally.

Written-only proponent testimony was provided by representatives of the Clean Energy Business Council and Flint Hills Renewable Energy and Efficiency Cooperative.

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

Fiscal Information

The fiscal information for each bill may be found below.

SB 40 (Net Operating Loss Subtraction Modification)

According to the fiscal note prepared by the Division of the Budget, the Department of Revenue indicates enactment of the bill would reduce State General Fund receipts by \$8.4 million in FY 2024 and \$8.4 million in FY 2025. The bill would have no fiscal effect after those years. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

SB 81 (Federal Tax Credit Disallowance Subtraction Modifications)

According to the fiscal note prepared by the Division of the Budget, the Department of Revenue indicates enactment of the bill would reduce State General Fund receipts by \$7.0 million in FY 2024, \$2.5 million in FY 2025, and \$1.1 million in FY 2026. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

SB 126 (Residential Clean Energy Tax Credit)

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Department of Revenue indicates enactment of the bill would reduce State General Fund receipts by \$40.5 million in FY 2024, \$42.5

million in FY 2025, and \$44.7 million in FY 2026. Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Taxation; income tax; credits; modifications; Work Opportunity Tax Credit; Employee Retention Credit; net operating losses; residential clean energy credit