

SESSION OF 2024

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 127**

As Recommended by House Committee on
Taxation

Brief*

House Sub. for SB 127 would amend law related to property tax filings and penalties for late remittance of withholding taxes and would create a sales tax exemption for certain purchases related to telecommunications infrastructure.

Personal Property Tax Filings

The bill would limit the instances in which a taxpayer must file statements listing tangible personal property for tax purposes, reduce penalties for late filings, and specify circumstances in which extensions of time for filing such statements and abatements of penalties would be provided.

Single Initial Filing

The bill would require, if an initial statement listing tangible personal property for taxation has been filed with a county appraiser, further filings only when there has been a change to report that is related to the property previously listed or to the initial statement.

*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>

Reduced Penalties

The bill would reduce the penalty for late filing of statements listing oil and gas leases and tangible personal property for taxation from 5 percent to 2 percent per month with the maximum penalty for late filing being reduced from 25 percent to 10 percent. The penalty for a failure to file resulting in escaped taxation would be reduced from 50 percent to 12.5 percent.

Extensions of Time and Abated Penalties

The bill would require county appraisers, who currently have discretionary authority to do so, to grant an extension of a reasonable amount of time for taxpayers to file statements of tangible personal property for taxation upon a showing of good cause.

County appraisers and the State Board of Tax Appeals would be required to abate late filing penalties under cases of excusable neglect or in the event the property has been repossessed by a creditor who paid the taxes on the property. [Note: Current law provides only the State Board of Tax Appeals with discretionary authority to abate such penalties.]

Beginning in tax year 2022, such good cause and excusable neglect would be specified to include instances in which tangible personal property had been previously classified as real property or a fixture to real property and was reclassified to be personal property. The bill would specify such instances include machinery and equipment used in industries of grain storage and processing and ethanol or other biofuels processing.

Withholding Tax Remittance Penalties

The bill would replace the 15 percent penalty for employers not timely remitting withholding taxes with a graduated penalty system providing for penalties as follows:

- 2 percent, if the remittance is 1 to 5 days late;
- 5 percent, if the remittance is 6 to 15 days late;
- 10 percent, if the remittance is more than 15 days late; and
- 15 percent, if the remittance is more than 15 days late and the Department of Revenue notified the taxpayer regarding the delinquency, but the tax was not remitted within 10 days of the notification.

Telecommunications Infrastructure Sales Tax Exemption

The bill would create a sales tax exemption for the purchase of equipment, machinery, or other infrastructure purchased for use in the provision of internet access service, telecommunications service, or video service and for repair, maintenance, and installation services purchased by providers in the provision of such internet access service, telecommunications service, or video service.

The exemption would expire on July 1, 2029.

Background

The bill as introduced, which was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Claeys, concerned sales tax authority for Dickinson County. The contents of the original bill were enacted into law in 2023 HB 2002.

On February 7, 2024, the House Committee on Taxation removed the original contents of SB 127, inserted the contents of SB 8, as amended by the House Committee on Taxation in 2023, and HB 2106, as amended by the House Committee of the Whole in 2023, and recommended a substitute bill be created. Background information for those two bills is provided below.

SB 8 (Property Tax Filings and Withholding Penalties)

The bill was prefiled for introduction by Senator Steffen on January 3, 2023.

Senate Committee on Assessment and Taxation

In the Senate Committee hearing, **proponent** testimony was provided by Senator Steffen; representatives of Kansas Grain and Feed Association, Kansas Manufactured Housing Association, and Renew Kansas Biofuels Association; and a private citizen. The proponents generally stated the bill would alleviate excessive penalties and penalization of taxpayers for simply forgetting to annually re-notify county appraisers of property.

Written-only proponent testimony was provided by representatives of the Kansas Cooperative Council and Kansas Livestock Association, and by an attorney whose practice deals with property tax matters.

The Senate Committee amended the bill to insert the provisions to require only a single filing and specifying circumstances related to extensions of time and abatements of penalties.

House Committee on Taxation

In the House Committee hearing, **proponent** testimony was provided by Senator Steffen, a private citizen, and representatives of the Kansas Grain and Feed Association and Renew Kansas Biofuels Association and the Kansas Manufactured Housing Association. The proponents generally stated the bill would reduce excessively punitive late filing penalties and make personal property tax compliance less burdensome for taxpayers.

Written-only proponent testimony was provided by representatives of the Kansas Cooperative Council and the League of Kansas Municipalities.

Written-only neutral testimony was provided by a representative of the Kansas County Appraisers Association.

No other testimony was provided.

The House Committee amended the bill to clarify the effective date of the provision requiring a single initial filing and inserted the contents of HB 2411, regarding withholding remittance penalties. Background information for HB 2411 is provided below.

HB 2411 (Withholding Remittance Penalties)

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

House Committee on Taxation

In the House Committee hearing, **proponent** testimony was provided by Representative Waggoner and representatives of the Kansas Chamber of Commerce and National Federation of Independent Businesses. The proponents generally stated the current penalties are unnecessarily punitive, and the penalties proposed by the bill mirror federal law.

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

No other testimony was provided.

HB 2106 (Telecommunications Infrastructure Sales Tax Exemption)

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

House Committee on Taxation

In the House Committee hearing, **proponent** testimony was provided by representatives of AT&T, Brightspeed, and the Kansas Cable Telecommunications Association. Proponents generally stated the bill would enable them to maximize the use of recent state and federal assistance for broadband infrastructure. Written-only proponent testimony was provided by representatives of the Kansas Chamber of Commerce, T-Mobile, and WANRack.

Opponent testimony was provided by a representative of the League of Kansas Municipalities, generally stating the exemption would erode the local tax base and reduce the amount of sales tax revenues to local governments.

No other testimony was provided.

House Committee of the Whole

The House Committee of the Whole amended the bill to insert the July 1, 2028, expiration date of the exemption. [Note: This date was revised to July 1, 2029 in House Sub. for SB 127.]

Fiscal Information

The Department of Revenue estimates enactment of the telecommunications infrastructure sales tax exemption would reduce state receipts by \$16.8 million in FY 2025, \$17.0 million in FY 2026, and \$17.1 million in FY 2027. Of those amounts, \$13.9 million, \$14.0 million, and \$14.0 million,

respectively, would be reductions to State General Fund (SGF) receipts, and the respective balances would be reductions to State Highway Fund revenues. Additionally, the provision would reduce local sales tax receipts.

The Department of Revenue indicates the reduction in withholding remittance penalties has the potential to increase SGF receipts by a negligible amount beginning in FY 2025, due to the possibility that smaller penalties could result in more late filings, resulting in higher net penalty collections.

The Department of Revenue indicates enactment of the personal property tax filing provisions would reduce state building fund receipts by \$29,356 per year, state uniform school levy receipts by \$391,311 per year, and local property taxes by \$19.1 million per year.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2025 Governor's Budget Report*.

Taxation; property tax; withholding; penalties; filing; sales tax; exemption; telecommunications