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The Honorable Adam Smith, Chairperson
House Committee on Taxation
Statehouse, Room 185A-N
Topeka, Kansas 66612

Dear Representative Smith:

SUBJECT: Fiscal Note for HB 2357 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2357 is respectfully submitted to your committee.

HB 2357 would establish the Property Tax Relief Act starting in tax year 2021 and in future tax years. The bill eliminates the Selective Assistance for Effective Senior Relief (SAFESR) and the Homestead Property Tax Refund after tax year 2021. The Property Tax Relief Act would be available to residential homestead property owners earning less than $50,000 a year in income. Married taxpayers would divide their combined income in half to determine if they qualify for the under $50,000 income threshold. The bill would allow the income threshold to be adjusted annually beginning in tax year 2023, according to the cost-of-living adjustments from the federal Internal Revenue Service (IRS). The bill includes two formulas to calculate the amount of the property tax relief that could be claimed on all Kansas individual income tax forms: one for a person less than 65 years of age and one for a person 65 years of age or older. The bill would only allow one claimant per household per year. The claimant could either have the refund applied to their property taxes or receive the refund directly. The bill includes definitions for “base year,” “claimant,” “homestead,” “household,” “household income,” “income,” and “property taxes accrued.” The bill includes language that allows the claimant’s legal guardian, conservator, attorney-in-fact, or estate to claim the tax credit.

The Department of Revenue would be required to send a record to the county clerks each year with the name of each eligible claimant who received a refund. The county clerk would make any needed corrections to the record sent by the Department of Revenue and certify the information to the county treasurer. The county treasurer would be required to certify the record with any changes to the Department of Revenue by December 31st each year. Any refund involving delinquent property taxes on the homestead would apply to the oldest delinquent property taxes first.

The Department of Revenue would be required make available the forms and instructions for claimants. The forms and instructions would be available at the county clerk's office who would also have the duty to assist claimants on filing a claim. The bill would require each county treasurer to include information from the Department of Revenue about claiming benefits from the Property Tax Relief Act in the annual property tax statement. The Department of Revenue would have the authority to write rules and regulations to implement the bill.

The bill would make it a class B misdemeanor to fraudulently make a claim and would allow for recovery of the amount paid with interest. A claim that is excessive or negligently prepared would have 10.0 percent of the corrected claim disallowed and allow for recovery with interest of any overpayment. The bill would not allow an individual to claim benefits under the Property Tax Relief Act, if they receive public funds to pay taxes or if they receive the title to the homestead primarily to receive the benefits of this bill. The bill would allow the Department of Revenue to extend the time to file a claim for good cause to within four years of the deadline.

The Department of Revenue estimates that HB 2357 would have no fiscal effect in FY 2022. The fiscal effect to state revenues during subsequent years would be as follows:

	FY 2023	FY 2024	FY 2025
State General Fund	($84,600,000)	($100,100,000)	($115,900,000)

To formulate the estimates on the Property Tax Relief Act, the Department of Revenue reviewed housing and population data from the U.S. Census Bureau and housing and property tax data from the Property Valuation Division of the Department of Revenue. The Department estimates that 148,379 claimants that are 65 years of age or older with household income less than $50,000 (or married with household income less than $100,000) would be eligible for this program. The Department estimates that 263,465 claimants under 65 years of age with household income less than $50,000 (or married with household income less than $100,000) would be eligible for this program. The average refund for tax year 2022 for a claimant that is 65 years of age or older is estimated to be $253.65 and the average refund for those claimants under 65 years of age is estimated to be $263.32. The second year of the program would include the additional refund for eligible claimants that are 65 years of age or and older, providing for a refund of the increase in their property tax from the base year, or the first year they are eligible for the program and are 65 years of age or older. The SAFESR and the Homestead Property Tax Refund expire after tax year 2021 and those savings are reflected in this fiscal note.

The Department indicates that the bill would require $159,209 from the State General Fund in FY 2022 to implement the bill and to modify the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Administration indicates that adjusting state income tax collections has the potential to have a fiscal effect on the amount of revenue collected from its debt setoff program. This program intercepts individual income tax refunds and homestead tax refunds and applies those amounts to debts owed to state agencies, municipalities, district courts, and state agencies in other states. Debts include, but are not limited to child support, taxes, educational expenses, fines, services provided to the debtor, and court ordered restitution. As the dollar amounts of refunds are increased, the amount available for possible debt setoffs is also increased. However, the Department is unable to make an estimate of the amount of additional debts setoffs that will be intercepted as a result of the bill.

The Department of Revenue, Department of Education, League of Kansas Municipalities, and the Kansas Association of Counties indicate the bill would have no fiscal effect on state and local property tax collections. The Kansas Association of Counties indicates that the bill would require county treasurers to include additional information with the annual property tax statement. The Association indicates that the bill would likely require counties to incur programming and coding costs to include this information with the annual property tax statement. The bill would also require county clerks to review information from the Department of Revenue and to assist claimants on filing a claim under the Property Tax Relief Act, which may require counties to hire temporary staff to help fulfill this requirement. However, the Association did not provide an estimate of the amount of additional programming and coding costs, or the costs to hire temporary staff that would be required for counties as a result of this bill.

A provision in the federal American Rescue Plan Act of 2021 (ARP) prohibits states or territories from using the federal funds appropriated from ARP "to either directly or indirectly offset a reduction in the net tax revenue of such State or territory resulting from a change in law, regulation, or administrative interpretation during the covered period that reduces any tax (by providing for a reduction in a rate, a rebate, a deduction, a credit, or otherwise) or delays the imposition of any tax or tax increase." If the state fails to comply with this provision by implementing a reduction of net tax revenue through tax year 2024, the U.S. Treasury would be required to recoup ARP funds in the amount of the net tax revenue reduction. If ARP funds are not available, it is presumed that the State General Fund would be used to reimburse the U.S. Treasury. Any fiscal effect associated with HB 2357 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,

Adam Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Jay Hall, Association of Counties
Jeff Scannell, Department of Administration
Wendi Stark, League of Municipalities
Craig Neuenswander, Education