

**UPDATED**  
*SESSION OF 2022*

**SUPPLEMENTAL NOTE ON SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 2316**

As Recommended by Senate Committee on  
Assessment and Taxation

**Brief\***

Senate Sub. for HB 2316 would amend law related to sales tax, including exemptions, exclusions, state rates on certain utilities, and sales tax remittances by retailers. The bill would also sunset a local sales tax in Atchison County and amend law related to the disposition of revenue of countywide sales taxes and sales tax imposed by Washburn University.

***Manufacturer's Coupons Sales Tax Exclusion***

The bill would exclude manufacturer's coupons from the sales price for purposes of retail sales and compensating use tax.

***Motor Vehicle Rebates Sales Tax Exclusion Sunset  
Repeal***

The bill would repeal the June 30, 2024, sunset for an exclusion from sales tax of cash rebates granted by manufacturers to purchasers or lessees of new motor vehicles if such rebates are paid directly to retailers.

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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>

### ***Back-to-School Sales Tax Holiday***

The bill would provide for a sales tax exemption for the first Thursday in August through the following Sunday for purchases of back-to-school-related clothing, clothing accessories or equipment, school supplies, school instructional materials, school art supplies, personal computers, school computer supplies, and prewritten computer software, as those items are defined by the bill.

The bill would direct the application of the exemption under certain conditions for layaway sales, bundled sales, discounts, unit sales, rain checks, exchanges, deliveries outside the time of the exemption, and returns.

### ***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 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.

### ***Sales Tax Remittances***

The bill would, beginning January 1, 2023, eliminate a provision requiring retailers with annual sales tax liability in excess of \$40,000 to remit estimated payment for the first 15 days of the current month when the tax return for the previous month is filed.

The bill would also increase the remittance thresholds for annual filers from up to \$400 to up to \$1,000, and for quarterly filers from up to \$4,000 to up to \$5,000.

### ***Washburn University***

The bill would provide that all sales subject to sales taxes imposed by cities and counties would be subject to sales taxes imposed by Washburn University.

### ***Atchison County***

The bill would require the termination of the countywide sales tax in Atchison County for joint law enforcement communications and solid waste disposal enacted pursuant to an election held on August 3, 1993, by June 30, 2024.

### ***Countywide Sales Tax Disposition of Revenue***

The bill would provide for all countywide sales taxes imposed pursuant to elections held on or after July 1, 2022, to be remitted to and retained by counties unless the board of county commissioners adopts a resolution at least 60 days prior to the election providing for the application of the formula in current law apportioning the proceeds of countywide sales taxes to the county and cities located within the county. The bill would require ballot propositions for countywide sales taxes to state whether the apportionment formula would be used for the proceeds of the tax.

### ***Johnson County Christmas Bureau***

The bill would create a sales tax exemption for purchases by or on behalf of the Johnson County Christmas Bureau Association for the purpose of providing food, clothing, cleaning supplies, personal care items, and other necessities of life to those in need and for all sales by or on behalf of the organization.

### **Background**

HB 2316 was introduced by the House Committee on Taxation at the request of a representative of the Kansas Restaurant and Hospitality Association. The Senate Committee on Assessment and Taxation removed the original contents of HB 2316 (those provisions related to the surcharge prohibition on purchases made with credit or debit cards and were inserted into Sub. for SB 462), inserted the contents described in the above brief section, and recommended a substitute bill be created.

The contents of Senate Sub. for HB 2316 previously existed in several different bills. The background of those bills is provided below.

### ***SB 432 (Back-to-School Sales Tax Holiday)***

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

### ***Senate Committee on Assessment and Taxation***

In the Senate Committee hearing on the bill, **proponent** testimony was provided by Senators Peck and Doll, generally stating that some of Kansas' neighboring states provide similar exemptions, and the bill would result in sales returning to Kansas and Kansas families receiving a sales tax reduction in making back-to-school purchases.

No other testimony was provided.

***SB 359 (Sales Tax on Utilities and Washburn University)***

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 the Kansas Chamber of Commerce, Kansas Industrial Consumers Group, National Federation of Independent Business, and Wichita Chamber of Commerce, stating the bill would afford commercial and industrial taxpayers the same tax treatment currently provided to residential and agricultural consumers. Written-only proponent testimony was provided by representatives of the Kansas Agribusiness Retailers Association, Kansas Grain and Feed Association, Kansas Policy Institute and Renew Kansas Biofuels Association.

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

No other testimony was provided.

***SB 87 (Atchison County and Local Sales Tax Authority)***

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 Atchison County Farm Bureau Board and the Kansas Association of Wheat

Growers, who stated the Atchison County sales tax is not being used according to the intent of voters in the 1993 election and counties should not be required to share proceeds of countywide sales taxes with cities.

**Opponent** testimony was offered by representatives of the cities of Atchison, Derby, Junction City, and Oberlin; the Kansas Association of Counties; and the League of Kansas Municipalities, and by a private citizen. Opponents stated the current apportionment formula generally works well for cities and counties and the Atchison County experience is not reflective of statewide experiences.

Written-only opponent testimony was provided by representatives of the Kansas Legislative Policy Group, the Southwest Kansas Coalition, and numerous cities.

The Senate Committee amended the bill to remove the original provision that would have eliminated the apportionment formula and to insert the provisions described above.

### ***SB 354 (Manufacturer's Coupons)***

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 on the bill, **proponent** testimony was provided by a private citizen. The proponent stated the bill would provide tax relief to individuals who use manufacturer's coupons and eliminate a tax that many consumers do not realize they are paying.

No other testimony was provided.

The Senate Committee amended the bill to limit the exclusion to only manufacturer's coupons and not all third-party compensation provided to retailers.

**Sub. for SB 311 (Johnson County Christmas Bureau)**

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of a representative of the Johnson County Christmas Bureau Association.

*Senate Committee on Assessment and Taxation*

In the Senate Committee hearing, **proponent** testimony was provided by two representatives of the Johnson County Christmas Bureau Association, stating enactment of the bill would enable them to more effectively serve those in need.

No other testimony was provided.

The Senate Committee amended the bill with a technical amendment and recommended a substitute bill be created.

**Fiscal Information**

The Department of Revenue estimates enactment of the bill would have the following fiscal effect.

(Dollars in Millions)

	<b>FY 2023</b>	<b>FY 2024</b>	<b>FY 2025</b>
Manufacturer's Coupons	\$ (1.7)	\$ (1.9)	\$ (1.9)
Motor Vehicle Rebates Sunset	-	-	(3.9)
Repeal			
Back-to-School Sales Tax Holiday	(7.0)	(7.1)	(7.3)
Utility Sales Tax	-	(46.8)	(52.1)
Sales Tax Remittance Change	(160.4)	-	-
<i>Subtotal State General Fund</i>	<u>\$ (169.1)</u>	<u>\$ (55.8)</u>	<u>\$ (65.2)</u>
Manufacturer's Coupons	\$ (0.3)	\$ (0.4)	\$ (0.4)
Motor Vehicle Rebates Sunset	-	-	(0.8)
Repeal			
Back-to-School Sales Tax Holiday	(1.4)	(1.4)	(1.4)
Utility Sales Tax	-	(9.0)	(10.0)
Sales Tax Remittance Change	(30.9)	-	-
<i>Subtotal State Highway Fund</i>	<u>\$ (32.6)</u>	<u>\$ (10.8)</u>	<u>\$ (12.6)</u>
<b>Total All Funds</b>	<u><b>\$ (201.7)</b></u>	<u><b>\$ (66.6)</b></u>	<u><b>\$ (77.8)</b></u>

The sales tax exemption for the Johnson County Christmas Bureau would have a negligible negative impact on State General Fund and State Highway Fund receipts.

Additionally, the Department of Revenue indicates provisions of the bill relating to manufacturer's coupons, Back-to-School sales tax holiday, and utility sales tax local options could result in Kansas being determined to be out of compliance with the Streamlined Sales and Use Tax Agreement, which could imperil \$60.4 million of annual revenue received pursuant to that Agreement.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2023 Governor's Budget Report*.

Taxation; sales tax; Atchison County; local sales tax distributions; manufacturer's coupons; motor vehicle rebates; sales tax holiday; sales tax remittance; utilities; Washburn University; Johnson County Christmas Bureau