

SESSION OF 2022

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2186**

As Amended by House Committee on Taxation

**Brief\***

HB 2186, as amended, would permit qualified corporation income taxpayers to elect to use only the sales factor to apportion their income to Kansas for tax purposes. The election to use only the sales factor to apportion income to Kansas would be binding on all members of a unitary group of corporations and effective for ten years, unless the Secretary of Revenue grants permission to the taxpayer to terminate the election prior to the end of the ten year period.

Qualified taxpayers would be those whose principal business activity in Kansas is:

- Farm and garden machinery and equipment wholesalers;
- Farm product raw material merchant wholesalers;
- Farm supplies merchant wholesalers;
- Farm product warehousing and storage;
- Hog and pig farming;
- Manufacturing;
- Production of electricity;
- Storage of electricity;

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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>

- Scientific and technical consulting services for biofuel facilities;
- Petroleum and petroleum products merchants wholesalers; or
- Paper and paper product merchant wholesalers.

The bill would require the Secretary of Revenue to submit a written report to the House Committee on Taxation and the Senate Committee on Assessment and Taxation by March 1, 2026, concerning the use of this election and the number of taxpayers that have elected to use only the sales factor to apportion income to Kansas for corporation income tax purposes.

### **Background**

The bill was introduced by the House Committee on Taxation at the request of Representative Wasinger on behalf of the Kansas Chamber of Commerce.

### ***House Committee on Taxation***

At the House Committee hearing on February 8, 2022, **proponent** testimony was provided by a representative of the Kansas Chamber of Commerce stating the bill would remove a disincentive for corporate taxpayers to make capital investment in Kansas and employ individuals in Kansas. Written-only proponent testimony was provided by representatives of Cargill, Hallmark Cards, Kansas Grain and Feed Association, NextEra Energy Resources, Overland Park Chamber of Commerce, and the Wichita Regional Chamber of Commerce.

**Opponent** testimony was provided by a representative of Kansas Action for Children stating a single sales factor apportionment formula disregards the tax-financed benefits

afforded to corporations with a large physical footprint in the state.

No other testimony was provided.

At the House Committee hearing on February 16, 2021, **proponent** testimony was provided by a representative of the Kansas Chamber of Commerce stating the bill would remove a disincentive for corporate taxpayers to make capital investment in Kansas and employ individuals in Kansas. Written-only proponent testimony was provided by representatives of Cargill, Kansas Grain and Feed Association, NextEra Energy Resources, Overland Park Chamber of Commerce, and the Wichita Regional Chamber of Commerce.

**Opponent** testimony was provided by a representative of Kansas Action for Children stating a single sales factor apportionment formula disregards the tax-financed benefits afforded to corporations with a large physical footprint in the state.

No other testimony was provided.

The House Committee amended the bill to add participation eligibility for hog and pig farming, scientific and technical consulting services for biofuel facilities, petroleum and petroleum products merchants wholesalers, and paper and paper product merchant wholesalers and to require the Department of Revenue to report to the Legislature on the bill.

### **Fiscal Information**

A fiscal note on the amended bill was not immediately available.

Taxation; corporation income tax; apportionment; sales factor