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## MEMORANDUM

TO: Governor's Council on Tax Reform

FROM: Mark A. Burghart  
Secretary of Revenue

RE: 2020 Conclusions and Recommendations

DATE: January 29, 2021

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The Governor's Council on Tax Reform (Council) met three times during 2020. A brief summary of the Council's conclusions and recommendations memorialized in the Council's Second Interim Report released on January 14, 2021 are set forth below.

### **I. RENEWAL OF 2019 RECOMMENDATIONS**

#### **A. Digital Goods (FY 2022 -- \$50.9 Million – all funds)**

The Council concluded that the inclusion of digital products in the sales and use tax base would be another step toward leveling the playing field between brick-and-mortar stores and retailers selling digital products. The current treatment of digital asset sales is not fair and equitable.

#### **B. Marketplace Facilitator (FY 2022 -- \$51.5 Million – all funds)**

The Council recommended that the Legislature consider and pass legislation that would require marketplace facilitators to register and begin collecting compensating use tax on sales to Kansas customers. This legislation would further level the tax playing field that has for 54 years been skewed in favor of out-of-state retailers and against in-state main street Kansas retailers.

#### **C. Food Sales Refundable Income Tax Credit (FY 2022 -- \$53.9 Million – all funds)**

In order to reduce the regressivity of the sales tax on food, the Council recommended consideration of a new refundable food sales income tax credit that would benefit as many as 400,000 Kansas households to help offset state and local sales tax paid on groceries. 2021 H.B. 2091 has been introduced and referred to the House Committee on Taxation where a hearing was conducted on January 28.

#### **D. Property Tax Lid Exemption (FY 2022 – No fiscal effect on SGF)**

The Council recommended consideration of legislation that would provide an exemption from the tax lid for cities and counties for transportation costs that would allow the local units to participate in the funding of infrastructure projects as partners with the state. 2021 H.B. 2030 has been introduced and referred to the House Committee on Taxation.

**E. Local Ad Valorem Property Tax Reduction Fund (LAVTRF)**

The Council recommended the favorable consideration of renewing the LAVTRF distributions, which have been suspended since 2002, with the proviso that an extra share of available fund be distributed to those rural counties with the highest average mill levy.

**F. Reaffirmation of the “Three-Legged Stool”**

The Council recommended that a return to the old notion of a more balanced “three-legged stool” again be a guiding principle for all future tax policy discussions and decisions.

**G. Caution by the Governor and the Legislature**

Given the devastation to the public sector brought about by the ill-advised tax policy in 2012, the Council recommended that the Governor and the Legislature exercise extreme caution when considering proposals that would diminish revenue until Kansas has fully restored its fiscal health, including creation of a “rainy-day fund” and an end to the transfer of highway dollars to the State General Fund.

**II. ADDITIONAL COUNCIL CONCLUSIONS AND RECOMMENDATIONS**

**A. Adequacy & Equity of the Tax System**

1. The underlying mission of the Council to evaluate the adequacy and equity of the state and local tax systems remains.
2. In light of the COVID-10 pandemic, the concept of adequacy needs to recognize a increased need for public-sector aid; many long-term pandemic related social costs are unknown.
3. Tax reform proposals need to be relatively modest, have any tax reductions targeted to the people most in need of relief, and ideally be close to revenue neutral.

**B. Federal Financial Assistance**

1. The Council’s letter to congressional leadership cited the very great need for additional federal support.
2. Additional support is needed to avoid cuts to state and local budgets, increased unemployment and a lengthy economic recovery period.

**C. Decoupling**

1. Since 1967, Kansas has been a rolling conformity state for many administrative, enforcement and compliance reasons.
2. Kansas must maintain a consistent policy approach when it considers decoupling issues.
3. Decoupling should occur only for the most compelling of reasons.

#### **D. Property Taxes**

1. The Council's mission contemplates a broader charge of addressing the entire state and local tax system.
2. The Council will monitor and potentially provide input into some property tax legislative proposals during the 2021 Session.
3. Local officials have a great deal of expertise and should be brought to the table to help navigate property tax nuances and complexities.

#### **E. Immediate Equitable Relief Measures**

1. The Council found that extension of the use tax mandate to marketplace facilitators and digital goods taxation are even more important in 2021 given that they would address equity issues for small businesses harmed by the pandemic.