

SESSION OF 2015

**CONFERENCE COMMITTEE REPORT BRIEF  
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2109**

As Agreed to June 7, 2015

**Brief\***

Senate Sub. for HB 2109 would make a number of changes in law regarding individual income tax, sales and compensating use tax provisions, motor vehicle registration and taxes, fire district taxation, and taxes on cigarettes; and would enact a tax amnesty for a number of tax sources. It also would enact additional tax-related provisions.

***Amnesty Provisions***

The bill would authorize a tax amnesty for penalties and interest relative to certain delinquent taxes provided such taxes are paid in full from September 1, 2015, to October 15, 2015. The amnesty would apply to privilege, income, estate, cigarette, tobacco products, liquor enforcement, liquor drink, severance, state sales, state use, local sales, and local use taxes. The amnesty would be limited to penalties and interest applied to liabilities associated with tax periods ending on or before December 31, 2013.

The amnesty would not apply to any matter for which, on or after September 1, 2015, taxpayers have received notices of assessment or for which an audit had previously been initiated. Any fraud or intentional misrepresentation in connection with an amnesty application would void the application and waiver of any penalties and interest.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

## ***Individual Income Tax Provisions***

### ***Guaranteed Payments***

The bill would revise an income tax subtraction modification for certain pass-through non-wage business income to require that guaranteed payments from businesses are counted as income in determining Kansas adjusted gross income.

### ***Rate Freeze***

Individual income tax rate reductions scheduled for future years would be eliminated. The tax year 2015 rates of 2.7 percent for the bottom tax bracket and 4.6 percent for the top tax bracket would remain the tax rates through tax year 2017. The tax rates for tax year 2018 and all future years would be 4.6 percent for the top tax bracket and 2.6 percent for the bottom tax bracket.

### ***Rate Reduction Formula Modifications***

A provision that could provide future formulaic income tax rate relief under certain circumstances, based on the extent to which revenue from a specified group of State General Fund (SGF) tax sources has increased over the previous fiscal year, would be revised to allow for 3.0 percent growth in SGF receipts, as well as allowing for further adjustments based upon growth in Medicaid and Kansas Public Employees Retirement System spending. Additionally, current law requires any rate adjustments be rounded down to the nearest 0.1 percent. The revised formula would require rate adjustments be rounded down to the nearest 0.01 percent.

The provision would continue to begin taking effect in tax year 2019.

### *Itemized Deductions Modification Acceleration*

A number of changes would be enacted for Kansas itemized deductions retroactive to January 1 (the start of tax year 2015). With the exception of charitable contributions, mortgage interest, and property taxes paid, all Kansas itemized deductions would be repealed. The current changes in the percentage that could be deducted (“haircuts”) being phased in for mortgage interest and property taxes paid relative to the amount that otherwise is allowed for federal income tax purposes would be accelerated such that the final 50 percent haircut currently scheduled for tax year 2017 would be effective immediately. Charitable contributions would remain fully deductible for Kansas taxpayers able to itemize at the state level, as under current law.

### *Individual Development Account Tax Credit*

The bill would restore, effective for tax year 2015, a tax credit that previously had been available for certain individual development account (IDA) contributions. That credit had been discontinued beginning in tax year 2013, pursuant to repeal in 2012 legislation.

### *ROZ Program*

The Rural Opportunity Zone (ROZ) program, which provides an income tax exemption and the repayment of certain student loans for certain individuals who establish residency in selected counties, would be extended. The program, which is currently scheduled to sunset in tax year 2017, would be extended for five years and be scheduled to sunset in tax year 2022.

### *Christmas Tree Net Gain*

The bill would create a subtraction modification from federal adjusted gross income in calculating Kansas adjusted

gross income for the net gain from the sale of Christmas trees.

#### *Social Security Number Requirement*

The bill would require an individual claiming a tax credit to have a valid Social Security number for the entire taxable year for which the tax credit is claimed. An exception to this requirement would exist for military spouses in the event that the taxpayers are married filing jointly.

#### *Elimination of the Food Sales Tax Rebate*

The bill would repeal a tax credit previously allowed for certain individuals for food sales tax.

#### ***Sales and Use Tax Provisions***

##### *Sales and Use Tax Rates*

The statewide sales tax and use tax rate would be increased from 6.15 percent to 6.55 percent on July 1, 2015. The tax rate for purchases of food and food ingredients of 4.95 percent would become effective July 1, 2016.

Statutory disposition-of-revenue percentages would be adjusted for both taxes to provide the entire estimated amount of new revenue associated with the changes would flow to the SGF while maintaining the current estimated level of receipts flowing to the State Highway Fund (SHF).

##### *Sales Tax Exemption Sunset*

Most sales tax exemptions would be scheduled to sunset on December 31, 2019. Exemptions not subject to the

sunset would include certain ingredient and component parts, business-to-business transactions, health-care-related purchases, religious purchases, and selected other exemptions.

#### *Local Sales Tax Provisions*

Additional provisions would authorize additional local sales tax authority for three counties—Thomas, Douglas, and Bourbon—for purposes of financing construction or remodeling of a courthouse, jail, law enforcement facility, or other county administrative facility. Thomas County would be granted an additional 0.5 percent authority, Douglas County would be granted an additional 0.5 percent authority, and Bourbon County would be granted additional authority of up to 1.0 percent. Relative to this new authority, all counties also would have an exception to the normal countywide sales tax distribution formula, which otherwise requires that funds be shared with cities. Voter approval would be required prior to the implementation of the new tax authority for Thomas County and Douglas County. For Bourbon County, the result of a previously held election would be declared valid for the implementation of the new tax authority.

#### ***Cigarette Tax Provisions***

The bill would increase the state's cigarette tax by \$0.50 per pack to \$1.29 per pack beginning July 1, 2015.

The bill also would establish an inventory tax for all cigarettes on hand as of July 1, 2015. The inventory tax would be \$0.50 per pack for cigarettes on hand as of July 1, 2015. The inventory tax would be due on October 31, 2015.

### ***Electronic Cigarette Taxation***

The bill would create a new tax on the privilege of selling or dealing electronic cigarettes at a rate of \$0.20 per milliliter of consumable material and a proportionate tax on all fractional parts thereof.

This new tax would be effective beginning July 1, 2016.

### ***Motor Vehicle Registration and Tax Provisions***

The bill would require the Department of Revenue to mail a copy of the motor vehicle registration application to the owner of a motor vehicle, including all information required to enable the owner to register the vehicle and pay the tax by return mail. An additional provision would allow for counties to opt out of the Department of Revenue mailing this information to the owners of vehicles registered in that county.

### ***Property Tax Provisions***

The bill would prohibit cities and counties from adopting appropriations or budgets with revenues from certain increases in property taxes that exceed the rate of inflation until such resolution proposing the increases has been approved at a regularly scheduled election. This requirement would be in effect beginning January 1, 2018.

### ***Other Provisions***

#### ***Fire Districts***

The bill would clarify the property tax levying authority of consolidated fire districts with respect to their authority to levy more than 15 mills. The bill also would remove the 5-mill limit imposed on fire districts.

*Tax Credit For Low Income Student Scholarship Program  
Revisions*

The bill would revise the Tax Credit for Low Income Students Scholarship Program Act. Revisions would include:

- Allowing the scholarship amount to be distributed directly to the school participating in the Program;
- Limiting the amount of money that may be distributed in educational scholarships each school year to \$8,000 per child;
- Removing a provision that required a student participating in the Program to waive special education services; and
- Allowing schools that provide education to either elementary or secondary students to participate in the Program.

*Land Bank Special Assessment Reamortization*

The bill would allow the governing body of any municipality that levied special assessments on property acquired by a land bank to enter into an agreement with the land bank to defer or reamortize all or part of the special assessments.

*Tax Study Commission*

The bill would establish the Tax Study Commission, charged with reviewing and making recommendations to the Legislature regarding property tax exemptions, sales tax exemptions, and income tax credits.

The bill would set forth the composition of the Commission and provide for procedure and staffing of the Commission.

### **Conference Committee Action**

The third Conference Committee on June 6 agreed to amend the contents of Senate Substitute for HB 2109, as further amended by the Senate Committee of the Whole, by retaining the amnesty provisions and the Social Security number requirement provisions (with a change for military spouses). The Conference Committee agreed to remove the motor vehicle registration and tax provisions; provisions prohibiting cities and counties from adopting certain appropriations or budgets; and provisions related to sales and use tax. Finally, the Conference Committee also agreed to insert the electronic cigarette provisions described above.

The third Conference Committee on June 7 agreed to revise the June 6 evening agreement by returning the provisions described above as removed and adding provisions regarding income tax not described in the preceding paragraph, sales and use tax exemptions, a Tax Study Commission, and fire district tax authority.

### **Background**

The original bill would have amended the Kansas Probate Code concerning transfer-on-death deeds. In a series of meetings beginning May 12, the Senate Assessment and Taxation Committee struck the original provisions of HB 2109, recommended a substitute bill be created, inserted many of the other provisions described above and, on May 19, advanced the new substitute bill for further consideration, without recommendation.

The Senate Committee of the Whole, on May 27, amended the substitute bill to reduce the sales tax rate on food to 5.7 percent (the Senate Assessment and Taxation

Committee version had set the food rate at 6.0 percent); to remove a number of proposed changes in the motor vehicle tax that had been included in the Senate Assessment and Taxation Committee version; to remove statutory disposition of revenue provisions that would have effectively produced an equivalent amount of receipts from the motor fuels tax increase for the SGF at the expense of the SHF; to clarify that the payroll tax credit applies only relative to persons employed in Kansas; to reduce the proposed cigarette tax increase to 18 cents per pack (from 50 cents in the Senate Assessment and Taxation Committee version) while earmarking \$10.0 million of cigarette tax receipts for the newly created Tobacco Cessation Fund; and to make a minor technical amendment. At a meeting at the rail on May 30, the Senate Committee on Assessment and Taxation amended the bill to remove provisions making changes to individual income tax laws, sales and compensating use tax provisions, motor fuel taxes, and taxes on cigarettes and tobacco products and recommended the bill favorably for passage containing only the tax amnesty provisions.

On May 31, the Senate Committee of the Whole further amended the bill to add the following: the requirement that a taxpayer have a valid Social Security number for the entire tax year in which an individual income tax is claimed; a provision related to sales tax treatment for purchases made on behalf of an entity that would otherwise benefit from a sales tax exemption; the subtraction modification for the net gain from the sale of Christmas trees; the provision requiring the Department of Revenue to mail motor vehicle registration and tax documents; and the reduction of the sales and compensating use tax rate. On June 1, the Senate Committee of the Whole further amended the bill to add a provision excluding certain low amounts of income from income tax. On June 2, the Senate Committee of the Whole further amended the bill to add the provision requiring a vote at a regularly scheduled election for cities and counties to adopt budgets including certain property tax increases. Additional amendments removed a provision which would have provided an income tax exclusion to certain taxpayers

and lowered the statewide sales and use tax for food to 5.7 percent beginning January 1, 2015. On June 3, the Senate Committee of the Whole adopted a technical amendment to reconcile provisions contained in the bill.

The Tax Credit for Low Income Student Scholarship Program provisions included in the Conference Committee Report are those of SB 270, as introduced. The land bank special assessment reamortization provisions are those of SB 63, as amended by the Senate Committee on Taxation.

Based on the latest information available from the Department of Revenue, the Conference Committee Report would have the following impact on SGF receipts :

(\$ in millions)

	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
Tax on Guaranteed Payments	\$ 23.700	\$ 19.200	\$ 20.100
Sales and Use Tax Changes	187.700	112.800	107.600
Itemized Deduction Changes	97.000	78.600	78.700
Tax Amnesty	30.000	0.000	0.000
Social Security Number Requirement	3.000	3.000	3.000
50-cent cigarette tax increase with e-cigarette tax	40.390	38.400	38.000
IDA Credit Reinstatement	(0.300)	(0.300)	(0.300)
Eliminate Food Sales Tax Credit	15.000	15.000	15.000
ROZ Sunset Extension	0.000	0.000	(0.560)
Ind. Inc. Tax Rate Changes	26.400	98.600	232.500
<b>TOTAL</b>	<b><u>\$ 422.890</u></b>	<b><u>\$ 365.300</u></b>	<b><u>\$ 494.040</u></b>

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