

REVISED FRONT PAGE/REVISED FISCAL NOTE  
SESSION OF 2002

CONFERENCE COMMITTEE REPORT  
SENATE BILL NO. 39

As Agreed to May 16, 2002

**Brief \***

SB 39, as amended, would provide a number of revenue enhancements from which the new revenues would be deposited in the State General Fund (SGF). The bill also would provide for several tax reductions, including an expansion of the business machinery and equipment income tax credit for property taxes paid; an extension of that credit to railroads; a special corporation income tax apportionment formula for investment funds service corporations; and a package of incentives for tire manufacturers and retreaders that includes a provision authorizing that debt service on Kansas Development Finance Authority bonds be paid by utilizing up to 75 percent of employee withholding taxes.

- **Sales Tax.** The state sales and compensating (use) tax rate would be increased from 4.9 to 5.3 percent, effective July 1, 2002. The rates would then be reduced to 5.2 percent on July 1, 2004; and to 5.0 percent on July 1, 2005.
- **Cigarette Tax.** The cigarette tax would be increased from 24 cents per pack to 70 cents per pack, effective July 1, 2002. The cigarette tax would be further increased to 79 cents per pack on January 1, 2003. A "floor" or inventory tax equivalent to the increases also would be imposed. An adjustment would be made to the dealers' discount percentage to assure that all new revenues would be deposited in the SGF.
- **Class C Inheritance Tax Reimposition.** For estates of decedents dying on or after the effective date of this section (publication in the Kansas Register), an inheritance tax would be imposed on interests received by "Class C" beneficiaries (generally, persons other than lineal ascendants or descendants and

---

\*Conference committee summary reports 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.

brothers and sisters) at rates ranging from 10 to 15 percent. These provisions would effectively reenact part of the inheritance tax act repealed in 1998.

- **Withholding Tax Provisions.** A definition of "distribution" would be amended include subchapter S corporations, limited liability corporations, and partnerships to bring Kansas' withholding tax provisions into conformity with federal provisions such that state withholding would occur under the same circumstances as federal withholding. KSA 2001 Supp. 79-31,100a would be amended to provide that withholding would be applicable to distributions to nonresident shareholders and partners. An additional provision would clarify that any IRS determination relieving payors from withholding responsibilities also would be applicable for Kansas withholding. Finally, the term "wages" would be expanded to include prizes and awards paid to professional athletes at sporting events held in the state.
- **Food Sales Tax Rebates.** The food sales tax rebate program would be expanded beginning in tax year 2002 by indexing the qualifying income thresholds for inflation and by increasing the dollar amounts of the rebates to \$36 and \$72. (Under current law, refunds of \$60 per person are available for taxpayers with qualifying income of \$0 to \$12,500; and refunds of \$30 are available for those with income of \$12,501 to \$25,000. Based on the inflation assumptions used by the Department of Revenue, refunds of \$72 per person would be available for those with qualifying income of \$0 to \$12,800; and refunds of \$36 per person would be available for those with income of \$12,801 to \$25,600.)
- **Business Machinery and Equipment Credits.** The tax credits available for property taxes timely paid on business machinery and equipment would be increased from 15 to 20 percent beginning in tax year 2005; and to 25 percent beginning in tax year 2007.
- **Investment Funds Service Corporations.** A special income tax apportionment formula would be made available to investment funds service corporations, authorizing such an election to have income apportioned to Kansas based on the number of shares owned by resident shareholders compared with the total number of shares owned by all shareholders (in lieu of the traditional three factor apportionment formula based on property, payroll, and sales).

- **Tire Manufacturers.** KDFA would be authorized to issue up to \$10 million in bonds qualified tire manufacturing businesses meeting certain criteria and contracting with the Department of Commerce and Housing. Bonds would be issued equal to \$1 for every \$5 pledged to be invested by the qualified business, and the proceeds would be used to acquire or improve real or personal property in Kansas for modernization and retooling of the contracting business. The bonds would be paid with up to 75 percent of moneys collected by the contracting business for withholding of employee individual income taxes.
  
- **Use Valuation Report and Formula Change.** The Director of Property Valuation (PVD) would be required to submit a report on or before September 1, 2002, relating to the history of agricultural land valuation procedures pursuant to KSA 79-1476. Another provision would amend the statutory formula relating to use valuation of agricultural land for property tax purposes to provide that the capitalization rate for all years beginning in 2003 be set at not less than 11 percent and not more than 12 percent.
  
- **Property Tax Exemption.** The bill also would expand the property tax exemption in KSA 2001 Supp. 79-201w for certain items of machinery, equipment, materials, and supplies with original retail cost when new of \$250 or less to include such items with original retail cost when new of \$400 or less beginning in tax years 2003.
  
- **Sales Tax on Phone Cards.** The bill further would remove from the sales tax imposition statute a requirement that prepaid telephone calling cards or authorization numbers have prepaid value measured in minutes or other time units in order to qualify for gross receipts taxation at the point of sale. Striking the requirement effectively extends the point-of-sale tax treatment to all prepaid calling cards and authorization numbers.
  
- **Local Sales Tax Provisions.** The bill would grant Douglas County additional local sales tax authority of 0.25 percent, provided the revenue is pledged for preservation, access, and management of open space and for industrial and business park-related economic development. The bill further would add Anderson County to a list of counties currently authorized to impose a sales tax and retain the entire amount of revenues (without sharing such revenues with cities), provided the moneys are pledged for financing the construction or remodeling of a

courthouse, jail, law enforcement center, or other county administrative facility. Anderson County would be granted an additional one percent of local sales tax authority relative to current law for such purposes.

- **Historic Preservation Credits.** The bill would make changes to the Historic Structure Rehabilitation Expenditure Credit which was created in 2001. This credit is equal to 25 percent of qualified expenditures incurred in the restoration and preservation of a qualified historic structure pursuant to a qualified rehabilitation plan. The bill would allow the credit to be claimed against the financial institutions privilege tax or the insurance premiums tax in addition to the income tax which is currently in statute. The bill would clarify the treatment of business entities claiming the credits against individual income taxes and would allow for the transfer of credits.
- **Various Property Tax Provisions.** The bill would amend the procedures for sale of property for delinquent taxes to permit a county without a court order to sell lots or tracts previously offered at public auction but which did not sell. In addition, a court may authorize a county to dispose of one or more lots or tracts by negotiated public or private sale or simply to transfer the lots or tracts if the properties have not sold at a prior public auction. The latter procedure is subject to a notice and hearing procedure. KSA 79-2401a also would be amended to remove Wyandotte County from a special provision of the law currently applicable to only Wyandotte and Johnson counties that requires partial redemption payments for delinquent homestead property taxes be credited to the most recent year for which the real estate was carried on the county tax-sale books.
- **Boat Valuation.** The bill would provide for proration of the taxable value of boats which are acquired or sold between January 1 and September 1 of any taxable year. Under current law, responsibility for taxes on the entire value of the boat is with the party who owns the boat on January 1 of a given year. Under the bill, a specific formula would be used to establish a prorated share of the taxable value for parties selling and acquiring a boat between January 1 and September 1. The bill would require the boat owner to notify the county appraiser within 30 days of the sale or acquisition. After receiving notice of the sale or acquisition, the county appraiser would compute the prorated value of the boat and send out a notification or revised notification of value to the taxpayer.

- **Taxpayer Fairness.** Other sections of the bill would enact the Taxpayer Fairness Act of 2002:

(1) Among the new provisions of law would be a requirement that Department of Revenue correspondence regarding tax assessments contain detailed, clear and accurate explanations of the assessments demanded, including specific information on the tax and tax year in question, as well as on penalties and interest. Any such correspondence involving amounts in excess of \$750 for individual accounts and \$2,000 for business accounts would be required to be reviewed for accuracy by departmental employees prior to issuance and to contain the employee identification number and telephone number of employees performing the accuracy reviews. An additional requirement relating to correspondence seeking to change the tax or refund due on returns filed by taxpayers would mandate that the proposed change be explained in simple and nontechnical terms.

(2) If a taxpayer has designated a third party or other representative to discuss Kansas income tax returns, the Department would be required to adhere to and comply with such designation and in discussions and correspondence regarding issues related to the returns.

(3) The Department also would be required to waive civil penalties upon the finding of any circumstance allowing waiver of civil penalties pursuant to the provisions of the federal Internal Revenue Code.

(4) Closing letters also would be required to be issued within 30 days upon the resolution of assessments to taxpayers or taxpayers' representatives. Taxpayers would be entitled to rely on the closing letters, and the Department would be prohibited from maintaining positions against taxpayers inconsistent with the stipulations of the letters.

(5) The Department would be required to notify in writing persons who are the subject of tax warrant filings. The notification would have to be delivered within five business days of the date the warrant is filed and would be required to include in simple and nontechnical terms the amount of unpaid taxes, information on the administrative appeals process available to the taxpayer, and on the provisions of law relating to the release of warrants on property.

(6) KSA 79-3226 would be amended to change a provision prohibiting additional individual income tax assessments in amounts of less than \$5. Under the new language, additional tax amounts of up to \$100 could be waived when the Department has determined that administration and collection costs involved would not warrant the efforts.

- **PEOs.** A Professional Employment Organization would be considered an employer for purposes of Kansas income tax withholding. The client would give payroll information for assigned workers to the Department of Revenue for income tax purposes and to qualify for certain tax incentives.
- **Sales Tax Exemption on Custom Software.** The bill would remove a current sales tax exemption which is provided for the sale of custom computer software.
- **EITC.** The bill would increase the Kansas Earned Income Tax Credit to from 10 percent to 15 percent of the federal credit.
- **Corporation Franchise Taxes.** Corporation franchise taxes and fees would be increased to effectively double the amount of revenue received relative to current law. (Current law, for example, imposed a tax of \$1 per \$1,000 of shareholder equity on corporations up to a maximum of \$2,500. Under the provisions of the bill, the tax would be \$2 per \$1,000 of shareholder equity up to a maximum of \$5,000).
- **Tax Credits Extended to Railroads.** The machinery and equipment income tax credits for property taxes paid would for the first time be made available for railroad property beginning in tax year 2005 (when the amount credit would be 20 percent). The railroad property also would qualify for the subsequent credit increase in tax year 2007. Under the bill the Joint Committee on Economic Development would be required to conduct an interim study regarding the necessity for this provision.
- **Sales Tax Exemption for Federal Employee Hotel Room Rentals .** Another section would provide a sales tax exemption for the gross receipts received from the rental of rooms by hotels and accommodations brokers to the federal government and its officers and employees when such rentals are made in association with the performance of official government duties.

## **Background**

Conferees on May 16 agreed to insert the aforementioned provisions.

Based on the latest fiscal information available from the Department of Revenue and Division of the Budget, the bill would be expected to produce the following amounts of additional revenue:

(\$ in millions)

FY	Sales/ Use to 5.3% 7/1/02 to 5.2% 7/1/04 and to 5.0% 7/1/05	Lee Floor Amend- ment Index FS Reb and incr \$ to \$36 and \$72 starting in fy 2002	Sen COW HB 2030 Good- year	Class C Inheri- tance Tax Reimpo- sition Effective KS Register	Cigs to .70 cent/pack 7/1/02; to .79 cents/pack 1/1/03	SB 501 W & Reed	Inc Tax Whldn SB 575	SB 553 use value cap rate School Finance Local Effort	SB 553 use value cap rate State Building Funds	Bus M&E Credit to 20% in tax year 2005; 25% in 07	Custom Software Sales Tax Exemption Removal	Bus. M&E Rail- roads to 20% in tax year 05	EITC Increase from 10% to 15%	USD Loc Eff Paperclip Exemp- tion to \$400 in tax year 03 20 mills	St Bldg Funds Paperclip Exemp- tion to \$400 in tax year 03 1.5 mills	Corp. Franch. Tax Doubled	Sales Tax Exempt for Fed. Employ Hotel Rooms	Total This Package
2003	\$140.232	\$(5.650)	---	\$15.000	\$81.618	\$(2.000)	\$0.500	---	---	---	\$14.849	--	(\$10.500)	---	---	\$18.000	(\$0.091)	\$252.140
2004	\$158.365	\$(6.300)	\$(0.949)	\$20.600	\$103.300	\$(4.000)	---	\$(0.540)	\$(0.041)	---	\$16.725	--	(\$10.815)	\$(0.150)	\$(0.011)	\$18.540	(\$0.094)	\$294.630
2005	\$126.137	\$(7.000)	\$(0.949)	\$21.218	\$103.300	\$(4.000)	---	\$(0.898)	\$(0.067)	---	\$17.311	--	(\$11.139)	\$(0.261)	\$(0.020)	\$19.096	(\$0.097)	\$262.631
2006	\$49.644	\$(7.700)	\$(0.949)	\$21.855	\$103.300	\$(4.000)	---	\$(0.898)	\$(0.067)	\$(10.737)	\$17.960	(\$1.936)	(\$11.474)	\$(0.282)	\$(0.021)	\$19.669	(\$0.101)	\$174.263
2007	\$44.376	\$(8.500)	\$(0.949)	\$22.510	\$103.300	\$(4.000)	---	\$(0.898)	\$(0.067)	\$(11.810)	\$18.634	(\$1.990)	(\$11.818)	\$(0.304)	\$(0.023)	\$20.259	(\$0.105)	\$168.615
5-Yr Total	\$518.754	\$(35.150)	\$(3.796)	\$101.183	\$494.818	\$(18.000)	\$0.500	\$(3.234)	\$(0.242)	\$(22.547)	\$85.479	(\$3.926)	(\$55.746)	\$(0.997)	\$(0.075)	\$95.564	(\$0.306)	\$1,152.279