

REVISED
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SUPPLEMENTAL NOTE ON SENATE BILL NO. 365

As Amended by House Committee on
Taxation

Brief*

SB 365, as amended, would create a stand-alone Kansas estate tax for three years; would provide a property tax exemption for certain machinery and equipment; and would expand the Homestead Property Tax Refund program.

Estate Tax Provisions

The bill would create a stand-alone Kansas estate tax no longer tied directly to federal law, effective for the estates of decedents dying on and after January 1, 2007. A set of brackets would be provided for tax years 2007-2009, with estates valued at \$2 million and below exempt from the tax in 2007-08; and estates valued at \$3.5 million and below exempt from the tax in 2009. For tax year 2007, rates would range from 6 to 10 percent. For tax year 2008, rates would range from 2 to 7 percent. For tax year 2009, rates would range from 1 to 3 percent. The tax would sunset, effective for the estates of decedents dying on and after January 1, 2010.

Property Tax Provisions

The legislation also would provide a property tax exemption for certain commercial and industrial machinery and equipment; telecommunications machinery and equipment; and railroad machinery and equipment acquired by qualified purchase or lease after June 30, 2006 as the result of bona fide transactions not consummated for the purpose of avoiding taxation; and such machinery and equipment transported into the state after June 30, 2006 to expand existing businesses or create new businesses. Taxpayers receiving such exemptions would not be subject to annual filing requirements with the State Board of Tax Appeals (SBOTA) pursuant to KSA 2005 Supp. 79-213.

*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>

The bill would further expand, effective for tax year 2007, an existing exemption for certain "low-cost" items of machinery, equipment, materials, and supplies by removing from the tax rolls such property with a retail cost when new of greater than \$400 but equal to or less than \$1,000.

The bill also would create two new funds within the state treasury, the Business Machinery and Equipment Tax Reduction Assistance Fund (BMETRAF); and the Telecommunications and Railroad Machinery and Equipment Tax Reduction Assistance Fund (TRMETRAF). These funds would provide a mechanism whereby taxing subdivisions would be reimbursed beginning in February, 2008 for certain property tax reductions assumed attributable to the exemptions. The Secretary of Revenue would be required to compute for each county an amount equal to the difference in machinery and equipment property taxes levied in tax year 2005 and various future tax years (beginning with tax year 2007). Based upon this computation, county treasurers would receive 100 percent of the difference for tax year 2007; 80 percent for tax year 2008; 60 percent for tax year 2009; 40 percent for tax year 2010; and 20 percent for tax year 2011. (The transfers from the state to counties would be made during FY 2008-2012). County treasurers would be required to apportion the BMETRAF and TRMETRAF funds among taxing subdivisions (including the state) relative to their respective shares of property tax levies. The Secretary also would be required to make an annual report to the standing tax committees on the BMETRAF and TRMETRAF computation methodologies.

Homestead Provisions

The bill also would expand the Homestead Property Tax Refund Act by increasing the income eligibility threshold for claimants age 65 and above from \$27,000 to \$50,000; and by increasing the amount of refunds such persons would receive who are eligible for the program under current law.

Background

The original bill would have created a stand-alone estate tax that would have sought to maintain an ongoing revenue stream of \$52 million per year, the current estimate for FY 2007.

The current Kansas estate tax is tied mainly to a now-defunct version of the federal law which had been in effect on December 31, 1997. But receipts from the current tax are expected to decrease to zero by FY 2012 as a result of a provision adopted in Kansas in 2002. According to the Department of Revenue, estate tax receipts are expected at the following levels under current law: \$52 million in FY 2007; \$43 million in FY 2008; \$32 million in FY 2009; \$15 million in FY 2010; and \$5 million in FY 2011; and zero in FY 2012 and thereafter.

The Senate Assessment and Taxation Committee amended the bill at the recommendation of a subcommittee chaired by Senator Bruce to replace the proposed bracket system in the original bill with a set of brackets and rates that would provide the same amount of revenue as anticipated under current law; to change the effective date of the bill from July 1, 2006 to January 1, 2007; and to clarify that the Kansas Estate Tax Act would expire, effective for estates of decedents dying on and after January 1, 2010.

The House Tax Committee amended the bill to set the Kansas estate tax exemption threshold at the same level provided in current federal law. That amendment would be expected to reduce receipts by \$7 million in FY 2008; \$4 million in FY 2009; and \$2 million in FY 2010.

The House Tax Committee also amended the bill to include the provisions of HB 2619 as amended by the House Committee of the Whole, with the exception of a floor amendment that would have expanded the school finance "homestead" exemption from \$20,000 to \$30,000; and the provisions of Sub HB 2525 as amended by the House Committee of the Whole.

The Department of Revenue on March 27 substantially increased the fiscal note attributable to the Homestead Property Tax Refund Act amendment.

The bill would be expected to have the following fiscal impact:

(\$ in millions)

	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	Total thru FY 2013
motor carrier property taxes	-	-\$0.743	-\$2.284	-\$3.903	-\$5.600	-\$7.376	-\$8.394	-\$28.300
usd local effort (20 mills)	-	-\$8.449	-\$15.738	-\$22.110	-\$26.922	-\$30.599	-\$33.821	-\$137.639
st building funds (1.5 mills)	-	-\$0.633	-\$1.180	-\$1.658	-\$2.019	-\$2.294	-\$2.536	-\$10.320
slider transfer (initial)	-	-\$31.444	-\$51.253	-\$54.315	-\$42.644	-\$22.995	\$0.000	-\$202.651
slider returned to local effort	-	\$4.939	\$8.058	\$8.524	\$6.681	\$3.726	\$0.000	\$31.928
slider return to st bldg funds	-	\$0.371	\$0.721	\$0.639	\$0.501	\$0.379	\$0.000	\$2.611
net state slider impact	-	-\$26.134	-\$42.474	-\$45.152	-\$35.462	-\$18.890	\$0.000	-\$168.112
reduction in inc tax credit	-	\$11.343	\$19.455	\$26.966	\$32.545	\$36.570	\$39.928	\$166.807
add'l homestead to 65+	-\$15.800	-\$16.300	-\$16.800	-\$17.300	-\$17.800	-\$18.300	-\$18.800	-\$121.100
net state impact (prop tax)	-\$15.800	-\$40.916	-\$59.021	-\$63.157	-\$55.258	-\$40.889	-\$23.623	-\$298.664
estate tax provisions	-	-\$7.000	-\$4.000	-\$2.000	\$0.000	\$0.000	\$0.000	-\$13.000
net state impact	-\$15.800	-\$47.916	-\$63.021	-\$65.157	-\$55.258	-\$40.889	-\$23.623	-\$311.664