REVISED
SESSION OF 2012

SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR SENATE BILL NO. 177

As Amended by House Committee of the Whole

Brief*

House Sub. for SB 177, as amended, would implement a number of major changes in income taxes; expand the Rural Opportunity Zone (ROZ) program; and enact a sales tax exemption for certain food and food ingredients.

Income Tax Provisions

Rate Rollbacks

One major part of the bill would provide for formulaic individual income tax rate reductions beginning in tax year 2013 based on the extent to which a certain specified group of State General Fund (SGF) tax sources have increased over the previous fiscal year.

The Director of Legislative Research would be required to certify at the conclusion of each fiscal year beginning with FY 2012, the amount by which a specific set of SGF tax receipts—generally most major income, privilege, and excise taxes—has grown over the prior year. The Secretary of Revenue would then be required to compute that percentage growth above 3 percent and reduce the middle individual income tax bracket for the upcoming tax year (beginning with tax year 2013) by that percentage, reduce the upper bracket by that percentage minus 0.5 percent, and reduce the bottom

---

*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 bracket by that percentage plus 0.5 percent. Language in the bill would provide that when the bottom bracket is computed to fall below a rate of 0.4 percent, it would be repealed altogether. This provision subsequently would apply to the remaining two brackets. After the individual income tax is completely repealed, the formulaic rate rollback provisions would be applied to the corporation income tax surtax. When the corporation surtax is repealed, adjustments would begin to the corporation base rate and to financial institution privilege tax rates.

For a fiscal year when the selected set of tax sources has not grown by 3 percent or more, no rate reductions would be triggered for the upcoming tax year.

The Secretary of Revenue would be required to report all income tax rate reductions triggered under the formula to the Governor, the Chairperson of the Senate Assessment and Taxation Committee, and the Chairperson of the House Taxation Committee, and to publish such reductions in the *Kansas Register* prior to September 15.

Business Income Exemption

The bill would totally exempt certain non-wage business income that under current law is subject to individual income tax (income reported by LLC's, Subchapter S corporations, and sole proprietorships on lines 12, 17, and 18 of federal form 1040). The exemption would be applicable to the first $100,000 of qualifying non-wage business income for tax years 2013-2015; the first $250,000 for tax years 2016-2017; and all qualifying non-wage business income beginning in tax year 2018.

An additional provision would eliminate a requirement that had been in the original bill to add back to Kansas adjusted gross income certain business income losses reported on the same lines of federal form 1040.

ROZ Expansion

The bill would add an additional 24 counties (Allen, Anderson, Bourbon, Brown, Chase, Cherokee, Clay, Coffey, Doniphan, Ellsworth, Grant, Haskell, Labette, Linn, Marshall, Meade, Morris, Nemaha, Neosho, Osage, Ottawa, Rice, Sumner, and Wabaunsee) to the ROZ program (bringing the total number of eligible counties to 74), which effectively provides an income tax exemption for certain out-of-state taxpayers who relocate to those counties. (The program also authorizes counties to participate in a state-matching program to repay student loans of up to $15,000 for certain students who establish domicile in ROZ counties.)

Tax Credits, Other Provisions

The bill also would reduce the state earned income tax credit (EITC) beginning in tax year 2014 to 9 percent of the federal EITC. The Kansas EITC is currently set at 18 percent and is scheduled to be reduced to 17 percent in tax year 2013.

Another income tax credit known as the food sales tax rebate program would be repealed beginning in tax year 2012.

The current June 30, 2012, sunset on an existing income tax credit for certain historic site preservation contributions also would be repealed.

A new tax credit also would be provided that would effectively exempt the income of resident individuals who have been unemployed for at least 12 months and relocate from a high unemployment county to a ROZ county.

Additional language would prevent taxpayers claiming the exemption of certain business income from also receiving either the expensing deduction or a separate tax credit available to the extent of certain resident individuals' liability pursuant to KSA 2012 Supp 79-32,266.

Also in tax year 2014, the standard deduction for heads of household would be increased from $4,500 to $9,000.

Sales Tax Provisions

A sales tax exemption for certain food and food ingredients would be enacted on July 1, 2012. Local units of government levying sales taxes would be granted authority to opt out of this exemption pursuant to the adoption of ordinances or resolutions.

Background

The original SB 177 dealt with the statute of limitations relative to claiming sales tax exemption claims. (Those provisions ultimately were enacted in 2011 through another bill.) The House Taxation Committee on February 20 removed the bill's original subject matter; inserted a number of the aforementioned provisions; and recommended that a substitute bill be created. The substitute bill contains a number of policy issues also found in HB 2747. Chairman Richard Carlson had appeared as the lead proponent for HB 2747.

The House Committee of the Whole on March 13 subsequently amended the bill to increase from 2 to 3 percent the amount of tax receipt growth allowed before additional rate reductions are triggered; to remove sales and use tax disposition of revenue provisions that would have diverted additional revenue to the SGF for FY 2014 and FY 2015; to remove a provision that would have made a number of refundable income tax credits nonrefundable; to exempt food from sales tax and repeal the food sales tax rebate program; to provide the income tax credit for certain taxpayers relocating to ROZ counties from high unemployment counties; to remove provisions that would have repealed an existing new-pool severance tax exemption for oil production; to repeal the sunset on the historic site income tax credit; and to add Sumner County to the ROZ program.

The latest fiscal information provided by the Department of Revenue on March 15 indicated that the House Committee of the Whole version would be expected to have the following impact on receipts:

SGF RECEIPTS ($ IN MILLIONS)

	Total	Income	Sales/Use
FY 2013	$ -333.7	$ -49.6	$ -284.1
FY 2014	-428.8	-161.5	-267.3
FY 2015	-429.0	-151.7	-277.3
FY 2016	-468.7	-180.9	-287.8
FY 2017	-530.3	-231.8	-298.5
5-yr total	$ -2,190.5	$ -775.5	$ -1,415.0

INDIVIDUAL INCOME TAX RATES

Joint	Current Law	TY 2013	TY 2014	TY 2015	TY 2016	TY 2017
$0-30k	3.50%	3.37%	3.37%	3.37%	3.34%	3.31%
$30k-60k	6.25%	6.05%	6.05%	6.05%	6.03%	6.00%
$60k+	6.45%	6.28%	6.28%	6.28%	6.28%	6.28%

SHF receipts also would decrease by the following amounts: $35.9 million in FY 2013; $60.4 million in FY 2014; $62.6 million in FY 2015; $65.0 million in FY 2016; and $67.4 million in FY 2017. The 5-year cumulative reduction in SHF receipts would be $291.3 million.

The overall cumulative net change on state tax receipts (SGF and SHF) through FY 2017 therefore would be a reduction of $2.4818 billion.