

SESSION OF 2014

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 265**

As Agreed to April 3, 2014

Brief*

SB 265 would make changes to the definition of income within the Homestead Refund Program; remove the income tax withholding requirement for nonresident pass through entities; clarify amounts added to federal adjusted gross income for the purposes of calculating Kansas adjusted gross income; reinstate two adoption tax credits; provide an income tax subtraction modification associated with organ donation; create a sales tax exemption for certain materials, machinery and equipment installed as a part of certain animal production and aquaculture projects; create a tax deduction for the net gain from the sale of certain livestock; reinstate two tax credits for expenditures used to make a dwelling or facility accessible for persons with disabilities; and repeal the sunset date for the Kansas Taxpayer Transparency Act.

Homestead Refund Program

The bill would change the definition of "income" to disregard the new "non-wage business income" exemption for the purpose of calculating income for both the homestead refund and the Selective Assistance for Effective Senior Relief (SAFESR) tax credit of the Homestead Refund Program. Under the current definition of "income" for the Homestead Refund Program, any person whose sole income was exempt under the "non-wage business income" exemption (created by the passage of 2012 HB 2117) could

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qualify for the refund, assuming the other eligibility qualifications were met.

Nonresident Pass Through Entity Withholding Requirement

The bill would remove the requirement that nonresident subchapter S corporations, partnerships, and limited liability companies withhold income tax from shareholders, partners, and members.

Kansas Adjusted Gross Income

The bill further would clarify that the amount added to federal adjusted gross income for any deduction for self-employment taxes under section 164(f) of the federal Internal Revenue Code for purposes of determining Kansas adjusted gross income is limited to the deduction attributable to income reported on schedule C, E, or F and on line 12, 17, or 18 of the federal form 1040.

Adoption Tax Credits

Additional provisions of the bill would reinstate two adoption tax credits removed during the 2012 Legislative Session. One credit would allow for a credit equal to 25 percent of the federal adoption tax credit. An additional 25 percent of the federal adoption tax credit would be allowed if the child adopted was a Kansas resident prior to adoption. An additional 25 percent of the federal adoption tax credit would be allowed if the child adopted was a child with special needs, as defined by the federal Internal Revenue Code. The other credit would allow for a \$1,500 credit for the adoption of a child with special needs or a child in the custody of the Secretary for Children and Families.

Agricultural Projects Sales Tax Exemption

The bill also would create a sales tax exemption for certain animal production and aquaculture businesses classified under subsector 112 of the North American Industry Classification System (NAICS) for the purchase of materials, machinery and equipment for the purpose of constructing, reconstructing, enlarging or remodeling the business.

Living Donor Organ Donations

Another section of the bill would authorize certain expenses associated with the donation of one or more human organs, as outlined in the bill, to be claimed as a subtraction modification on a taxpayer's tax return beginning with tax year 2014. The subtraction modification for any individual or dependent would be limited to \$5,000. The provisions would take effect on the day the Secretary of Revenue certifies to the Director of the Budget that the cost to the Department of Revenue for modifications to the automated tax system to accomplish the intent of the bill would not exceed \$20,000.

Livestock Net Gain Deduction

The bill would create an income tax deduction from federal adjusted gross income in determining Kansas adjusted gross income for the net gain of the sale of any cattle or horses held by the taxpayer for draft, breeding, dairy, or sporting purposes that were held by the taxpayer for 24 months or more from the date of acquisition. The bill would create the same deduction for other livestock held for draft, breeding, dairy, or sporting purposes for 12 months or more from the date of acquisition. The deduction would be limited to the amount of losses reported on schedules C, E, and F and lines 12, 17, and 18 of the federal form 1040 attributable to the business in which the livestock sold had been used.

Dwelling and Facility Accessibility Credits

The bill further would reinstate, retroactive to tax year 2013, an individual income tax credit repealed in 2012 to provide reimbursement under certain circumstances for a portion of the costs associated with modifying a taxpayer's principal residence to make it more accessible to persons with disabilities. The maximum amount allowed would be \$9,000 and the credit phased out altogether at federal adjusted gross income of \$55,000 and above. The bill also would reinstate, retroactive to tax year 2013, a second credit to provide reimbursement for a portion of the costs borne by individual income taxpayers making other facilities more accessible to persons with disabilities. This credit, which also was repealed in 2012 for individual (but not corporation) income taxpayers, generally would be limited to 50 percent of qualifying expenditures and capped at \$10,000.

Taxpayer Transparency Act Sunset Repeal

The bill would repeal the sunset date for the Kansas Taxpayer Transparency Act. The Act is currently scheduled to sunset on June 30, 2014.

Conference Committee Action

The Conference Committee, on April 3, agreed to the House amendments to SB 265 and further agreed to insert the provisions relating to the livestock net gain deduction and dwelling and facility accessibility credits (HB 2642, as amended by the House Committee on Taxation), sunset date of the Taxpayer Transparency Act (HB 2755, as recommended by the House Committee) and the organ donation and agricultural sales tax exemption provisions from HB 2267.

Background

SB 265 dealt with the Homestead Refund Program and was introduced by the Senate Committee on Assessment and Taxation. The Senate Committee on Assessment and Taxation amended the bill to make the change retroactive to 2013. The House Committee on Taxation amended the bill to add the provisions regarding the nonresident pass through entity withholding requirement and the Kansas adjusted gross income. The bill was amended by the House Committee of the Whole to reinstate the two adoption tax credits.

Additional background is available in the Supplemental Notes for the bills referenced above.

Fiscal Information

The following table summarizes the latest information available for those portions of the bill with identifiable fiscal notes:

	(\$ IN MILLIONS)					
	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	5-Year Total
Adoption Credits	\$ (1.600)	\$ (1.600)	\$ (1.600)	\$ (1.600)	\$ (1.600)	\$ (8.000)
Livestock Sale Deduction	(2.600)	(1.430)	(1.430)	(1.430)	(1.430)	(8.320)
Disabled Access Credit	(0.032)	(0.016)	(0.016)	(0.016)	(0.016)	(0.096)
Agricultural Sales Exemption (SGF)	(1.990)	(2.060)	(2.140)	(2.220)	(2.310)	(10.720)
Totals (SGF)	\$ (6.222)	\$ (5.106)	\$ (5.186)	\$ (5.266)	\$ (5.356)	\$ (27.136)
Agricultural Sales Exemption (SHF)	(0.410)	(0.430)	(0.440)	(0.46)	(0.47)	(10.72)
Total All Funds	\$ (6.632)	\$ (5.536)	\$ (5.626)	\$ (5.726)	\$ (5.826)	\$ (37.856)

Note: Totals may not add due to rounding.

taxation; Homestead Refund Program; withholding; tax credits; livestock; transparency

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