SESSION OF 2013

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2059

As Amended by Senate Committee of the Whole

Brief*

HB 2059, as amended by the Senate Committee of the Whole, would make a number of adjustments to income and severance tax provisions enacted in 2012 and would freeze the current sales and use tax rate at 6.3 percent.

The sales and use tax rate, which is scheduled under current law to be reduced from 6.3 to 5.7 percent on July 1, 2013, would remain at 6.3 percent. Disposition of revenue provisions are adjusted such that all of the additional revenue would be deposited in the State General Fund (SGF).

Relative to the individual income tax, a number of changes would be enacted to Kansas itemized deductions. The deduction for certain gambling losses would be repealed altogether. All other itemized deductions, with the exception of charitable contributions, would be reduced by 24 percent in tax year 2013; 41 percent in tax years 2014-15; 65 percent in tax year 2016; and 94 percent in tax year 2017 and thereafter. (The deduction for charitable contributions would remain unchanged relative to current law.)

A new series of individual income tax rate cuts would be provided beginning in tax year 2014, when the current bottom bracket of 3.0 percent would be reduced to 2.5 percent; and further reduced to 1.9 percent beginning in tax year 2016. The current top bracket of 4.9 percent also would be reduced to 3.5 percent beginning in tax year 2017. Beyond the aforementioned rate reductions, another provision of the bill would provide a formula for additional rate relief beginning in

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*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 tax year 2016 when actual SGF receipts from taxes have grown by more than four percent from one fiscal year to the next.

One part of the 2012 law that would be repealed requires taxpayers who are partners or Subchapter S corporation shareholders to compute a different adjusted basis for their partnership interests or Subchapter S stock for Kansas income tax purposes than they do for federal income tax purposes.

An additional section would clarify that for Kansas income tax purposes, the add back to federal adjusted gross income required of certain losses for Subchapter S corporations would not apply to those entities with wholly owned subsidiaries subject to the financial institutions privilege tax.

Two separate income tax credits for certain adoption expenses that were repealed in 2012 also would be restored.

Another provision in the bill would clarify the 50-barrel-per-day threshold enacted in 2012 relative to being excluded from the new pool severance tax exemption for oil and would be determined based on the initial six months of production from each well.

A number of other provisions are technical in nature and do not change state policy, including clarifying references to certain federal forms and schedules; adjusting provisions relating to itemized deductions and the food sales tax rebate program; and correcting certain statutory references within the Kansas income tax code.

The bill would be in effect upon publication in the *Kansas Register.*

Background

The original bill, which dealt with the adjusted-basis issue, the severance tax clarification, and other technical changes, was introduced at the request of the Department of Revenue, whose representative said it was a “trailer” bill designed to address several problems that had arisen in the wake of the 2012 changes in state income and severance tax law.

On February 5, the House Taxation Committee amended the bill to incorporate the subject matter of HB 2061 relating to the income tax add back for Subchapter S corporations with subsidiaries otherwise subject to the privilege tax. On February 5, the Department verbally reaffirmed the language repealing the different Kansas basis requirement that would reduce SGF receipts by $8.0 million annually beginning in FY 2014; and eliminating the add back for certain Subchapter S corporations with subsidiaries subject to the privilege tax would reduce receipts by an additional $2.5 million, annually. The reduction of $10.5 million in SGF receipts was not taken into account in *The FY 2014 Governor’s Budget Report.*

On February 20, the Senate Assessment and Taxation Committee amended the bill to incorporate the provisions of SB 78, as previously amended by that Committee. That legislation had been requested for introduction by the Governor, whose budget recommendations did not contemplate any income tax rate changes or another provision of the introduced version of the bill that would have repealed the state itemized deduction for property taxes paid. On February 12, the Senate Assessment and Taxation Committee had amended SB 78 to remove this latter provision relating to the itemized deduction for property taxes. The provision relating to additional rate reductions attributable to SGF growth beyond four percent has not been assigned any fiscal impact because revenue projections utilized in the *Governor’s Budget* never exceed that level.

The Senate Committee of the Whole, on March 13, removed that part of the Governor's proposal that would have repealed the itemized deduction for certain mortgage interest beginning in tax year 2013 and replaced that language with the provisions repealing the deduction for gambling losses; and providing the uniform and increasing haircut for all other itemized deductions, except for charitable deductions. An additional Senate Committee of the Whole amendment restored the adoption income tax credits.

Based on the latest information available from the Department of Revenue, the Senate Committee of the Whole version of HB 2059 would have the following impact on SGF receipts:

($ in Millions)

	FY 14	FY 15	FY 16	FY 17	FY 18	5-yr total
Sales/Use Rate Freeze	$ 262.3	$ 296.9	$ 308.0	$ 319.5	$ 331.5	$ 1,518.2
Changes to Itemized Deductions	103.8	119.7	147.0	232.2	307.7	910.4
Adoption Credits	(1.5)	(1.5)	(1.6)	(1.6)	(1.7)	(7.9)
Income Tax Rate Changes	(37.9)	(128.1)	(184.6)	(512.3)	(1,008.0)	(1,870.9)
Repeal Kansas Adjusted Basis	(8.0)	(8.0)	(8.0)	(8.0)	(8.0)	(40.0)
Certain Subchapter S Add-Backs	(2.5)	(2.5)	(2.5)	(2.5)	(2.5)	(12.5)
TOTAL	$ 316.2	$ 276.5	$ 258.3	$ 27.3	$ (381.0)	$ 497.3