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LEGISLATURE *of* THE STATE *of* KANSAS
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300 SW TENTH AVENUE ■ SUITE 24-E ■ TOPEKA, KS 66612 ■ (785) 296-2321

MEMORANDUM

To: House Committee on Judiciary
From: Office of Revisor of Statutes
Date: March 25, 2021
Re: House Bill No. 2451

House Bill No. 2451 amends K.S.A. 50-6a03 and directs that beginning in calendar year 2022 certain payments from tobacco products manufacturers not participating in the master settlement agreement would be remitted by the director of taxation to the state treasurer and credited to the Kansas endowment for youth fund rather than be deposited into a qualified escrow fund as is required under current law. The amount of such remittance to the director is \$.0188482 per unit sold. The department of revenue and the attorney general shall promulgate rules and regulations as necessary to implement such remittance requirement. The bill requires the attorney general to certify that the tobacco product manufacturer did not seek a credit or refund within one year of the remittance to the director before the state treasurer deposits such payments into the Kansas for endowment youth fund.

The bill also adds language allowing each tobacco manufacturer that remits moneys in accordance with the above paragraph to contest the amount of such remittance and seek a credit or refund to the extent that such manufacturer establishes the amount required to be remitted was greater than the master settlement agreement payments that the manufacturer would have been required to make if such manufacturer had been a participating manufacturer under the settlement. The manufacturer may elect to receive the excess amount as a refund or a credit against future remittances.

The bill also amends K.S.A. 50-6a01 to include a policy statement to require tobacco product manufacturers that have not entered into the master settlement agreement "to pay directly to the state an amount that: (1) Prevents such manufacturers from deriving large, short-term profits and then becoming judgment-proof; (2) requires such manufacturers to internalize the healthcare costs imposed on the state by cigarette smoking; (3) increases the price of such manufacturers' cigarettes, thereby reducing smoking rates, particularly among youth, consistent with the state's policy of discouraging underage smoking; and (4) serves as partial compensation for the financial burdens imposed on the state by cigarette smoking."

The bill adds a new section 9 providing that in the event all or any portion of the amendments to K.S.A. 50-6a03 made by this bill are adjudged by a court to be unconstitutional or invalid, the attorney general shall certify to the secretary of state that such adjudication has occurred. Upon receipt of such certification, the secretary of state shall publish such notice in the Kansas register. On January 1, 2022, and the date of such publication in the Kansas register, sections 1 through 4 of the bill would be repealed, and new sections 5 through 8 would become effective. Sections 5 through 8, would be a return to the current law governing tobacco product manufacturer payments.

If enacted, HB 2451 would take effect upon publication in the statute book, July 1, 2021.