CORRECTED
SESSION OF 2017

SUPPLEMENTAL NOTE ON SUBSTITUTE FOR SENATE BILL NO. 97

As Recommended by Senate Committee on Assessment and Taxation

Brief*

Sub. for SB 97 would make a number of changes in the state individual income tax structure and would reduce the sales tax rate on certain food and food ingredients.

Income Tax Provisions

The bill would repeal, effective for tax year 2017, the exemption for non-wage business income in effect since tax year 2013. Taxpayers also could begin claiming certain non-wage business income losses in conformity with federal treatment (but would not be able to file amended returns for previous tax years when such losses were not eligible to be claimed for Kansas income tax purposes).

Certain member contributions made on a pre-tax basis to Kansas Board of Regents' retirement plans established pursuant to KSA 74-4925 would become subject to income tax beginning in tax year 2017.

Medical expenses allowed as itemized deductions under federal law would become available as Kansas itemized deductions beginning in tax year 2017. (Legislation enacted in 2015 had repealed the medical expense deduction altogether for state income tax purposes.)

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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

A flat rate of 3.9 percent would begin to be applied for the individual tax beginning in tax year 2018. (Current law provides for a two-bracket system with rates of 2.6 and 4.6 percent beginning in tax year 2018.) No adjustment would be made to formulaic rate reduction provisions that could provide for subsequent downward adjustments based on growth in certain State General Fund (SGF) receipts.

An additional low-income exclusion for certain taxpayers (married filing jointly with taxable income of $12,500 or less and all other individuals with taxable income of $5,000 or less) would be repealed beginning in tax year 2018.

Finally, taxpayers in compliance with current law as of June 30, 2017, would be exempt from penalties and interest from underpayment of taxes due to changes in law occurring on July 1, 2017, provided such underpayments are rectified on or before April 15, 2018.

Sales Tax Provisions

An additional provision of the bill would reduce the sales tax rate on certain food and food ingredients, effective January 1, 2018, from 6.5 to 5.5 percent. An additional formula would provide for the rate on food to be further reduced by 0.2 percent each year beginning on January 1, 2020, when certain SGF receipts had grown by 1.0 percent or more in the immediately preceding fiscal year.

The food tax reduction generally would not apply to most prepared foods, but it would apply to candy, dietary supplements, soft drinks, food sold through vending machines, and most purchases of bottled water.

Background

Individual income tax legislation originally enacted in 2012 provided for the non-wage business income exemption.

A three-bracket system (3.50 percent, 6.25 percent, and 6.45 percent) that had remained largely unchanged since the early 1990s also was amended at that time to become a two-bracket system (with rates set at 3.0 and 4.9 percent for tax year 2013 and all years thereafter). Additional changes in that 2012 legislation included the repeal of various tax credits, removal of renters from the Homestead Property Tax Refund program, and increases in standard deductions.

Follow-up legislation enacted in 2013 made a number of reductions to itemized and standard deductions, provided for additional income tax rate reductions to be phased in through tax year 2018, and established formulaic relief that could occur in future years.

A third major round of changes to the state's tax structure enacted in 2015 included removing some of the income tax rate reductions scheduled to occur through tax year 2018, adjusting the formulaic provisions, reducing itemized deductions further, increasing the sales tax rate, and increasing the cigarette tax rate.

The original bill dealt with a sales tax exemption for certain automobile manufacturer rebates. Proponents included a representative of the Kansas Automobile Dealers' Association.

In the Senate Committee on Assessment and Taxation hearing on February 6, the Senate Committee removed the bill's original provisions, recommended a substitute bill be created, and inserted the previously described income and sales tax provisions.

The latest fiscal information provided by the Department of Revenue indicated the substitute bill would be expected to increase SGF receipts by $200.8 million in FY 2018. Of this amount, individual income tax receipts would be expected to increase by $222.5 million, while sales tax receipts would decrease by $21.7 million. For FY 2019, the net SGF fiscal note would be an increase in receipts of $138.9 million. This would include an increase of $191.4 million in individual income tax receipts and a decrease of $52.5 million in sales tax receipts.

Sales tax receipts to the State Highway Fund would be expected to decrease by $4.2 million in FY 2018 and by $10.2 million in FY 2019.