SESSION OF 2013

SECOND CONFERENCE COMMITTEE REPORT BRIEF
HOUSE BILL NO. 2059

As Agreed to June 1, 2013

Brief*

HB 2059 would make a number of adjustments to sales and income tax law; clarify the severance tax law of helium; expand the Rural Opportunity Zone (ROZ) program; make a minor change regarding the transfer of title of certain tax-exempt property; and authorize tax abatement for disaster-damaged property.

Sales Tax Provisions

The bill would set the sales and use tax rate at 6.15 percent on July 1, 2013. The rate currently being levied is 6.3 percent (but is scheduled under current law to be reduced to 5.7 percent on July 1, 2013).

Sales and use tax disposition of revenue provisions would be adjusted, based on information provided by the Department of Revenue, to provide that the net of additional revenues in excess of 5.7 percent would be deposited exclusively into the State General Fund (SGF).

Income Tax Provisions

Relative to the individual income tax, a number of changes would be enacted to Kansas itemized deductions.

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The deduction for certain gambling losses would be repealed altogether. Most other itemized deductions (except the deduction for charitable contributions, which would be fully retained) would be reduced by 30 percent in tax year 2013; 35 percent in tax year 2014; 40 percent in tax year 2015; 45 percent in tax year 2016; and 50 percent in tax year 2017 and thereafter.

Kansas standard deduction levels for married taxpayers filing jointly and for single heads-of-household would be set at $7,500 and $5,500 respectively, beginning in tax year 2013. Legislation enacted in 2012 had raised both standard deduction levels (from $6,000 for married joint and $4,500 for heads of household) to $9,000.

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 2.7 percent, and the current top bracket of 4.9 percent would be reduced to 4.8 percent. In tax year 2015, the top bracket would be further reduced to 4.6 percent. The two rate brackets would be set at 2.4 and 4.6 percent, respectively, in tax year 2016; 2.3 and 4.6 in tax year 2017; and 2.3 and 3.9 percent in tax year 2018.

Future formulaic income tax rate relief would be provided under certain circumstances beginning as early as tax year 2019 based on the extent to which a specified group of SGF tax sources had increased over the previous fiscal year. Generally, rate relief would be triggered under the formula once that group of taxes exceeds the previous fiscal year's levels (beginning with FY 2018 growth over FY 2017) by 2.0 percent or more.

Additional language would partially restore the food sales tax rebate program, which had been repealed altogether by 2012 law. The income tax credits that could be claimed by eligible households would now be nonrefundable, whereas under prior law (before the repeal) the credits had been refundable.

Severance Tax on Helium

The definition of natural gas for severance tax purposes also would be modified to clarify that it includes "all other raw, unrefined gases, all constituent parts of any such gas or gases and refined products derived from any such gas or gases, including, but not limited to, methane, ethane, propane, butane, and helium."

The bill further would eliminate retroactively all refund claims associated with the notion that any constituent part of gas and any refined products derived from gas were not taxable under the 1983 severance tax imposition.

ROZ Program

Another provision of the bill would place an additional 23 additional counties (generally those with populations of 15,000 or less) into the ROZ program. That program offers individuals who relocate from outside of the state to qualifying counties a full state income tax exemption through tax year 2016; and the opportunity to receive student loan repayments from those qualifying counties that also have opted to participate in a special repayment-matching program with the state.

The following counties would be added (to the existing 50 counties) designated as ROZ-eligible: Allen, Anderson, Bourbon, Brown, Chase, Clay, Coffey, Doniphan, Ellsworth, Grant, Gray, Haskell, Jackson, Linn, Marshall, Meade, Morris, Nemaha, Neosho, Ottawa, Rice, Stevens, and Wabaunsee.

Title of Certain Tax-Exempt Property

Additional language would remove from current law a requirement that the title of certain tax-exempt property constructed or purchased with the proceeds of Industrial Revenue Bonds (IRBs) be transferred to the city or county issuing the IRBs during the duration of the exemption.

Tax Abatement for Disaster-Damaged Property

Finally, the bill would authorize counties to grant property tax abatement or credits to owners of homesteads destroyed or substantially destroyed by earthquake, flood, tornado, fire, storm, or other event that the Governor has declared a disaster, taking effect for taxable years after December 31, 2011, and ending before January 1, 2014.

If the destruction occurs between January 1 and August 15, the owner could apply to the board of county commissioners for the abatement on property taxes due in the current year; or if, in this time period, the taxes have been paid or partially paid, the homeowner could apply for a credit against property taxes payable during any or all of the following three taxable years. If the destruction occurs after August 15 but before the end of the year, the owner could apply to the board of county commissioners for a credit against taxes payable by the owner during any or all of the following three taxable years.

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

Conference Committee Action

The second Conference Committee on June 1 agreed to remove many of the provisions of the bill, as amended by the Senate Committee of the Whole, and insert the aforementioned tax plan.

Background

The original bill, that dealt with an adjusted-basis issue, a 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 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 a uniform and increasing haircut for all other itemized deductions, except for charitable deductions. An additional Senate Committee of the Whole amendment restored an adoption income tax credit.

Based on the latest information available from the Department of Revenue, the Conference Committee Report would have the following impact on SGF receipts (see table on next page).

Sales and Use Tax, Income Tax Rates, Standard Deductions, Itemized Deductions

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Disaggregated Details of This Proposal
($ in millions)

	Sales Tax Provisions	Income Tax Provisions						
	6.15%	**Item Ded. Haircut**	**Changes Std. Ded.**	**Rate Cuts**	**ROZ**	**FS Rebates**	**Net Inc. Tax**	**Total**
FY 2014	$ 193.2	$ 114.6	$ 56.3	$ (35.2)	$ (1.0)	$ (20.0)	$ 114.7	**$ 307.9**
FY 2015	218.7	107.4	59.1	(145.1)	(2.0)	(21.0)	(1.6)	**217.1**
FY 2016	226.9	127.0	62.1	(238.3)	(3.1)	(22.1)	(74.4)	**152.6**
FY 2017	235.4	148.3	65.2	(317.4)	(4.2)	(23.2)	(131.3)	**104.1**
FY 2018	244.3	166.5	68.4	(459.5)	0.0	(24.3)	(248.9)	**(4.6)**
5 yr-total	$ 1,118.5	$ 663.8	$ 311.1	$ (1,195.5)	$ (10.3)	$ (110.5)	$ (341.4)	**$ 777.1**

Note: Totals may not add due to rounding