

SESSION OF 2008

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 471**

As Amended by House Committee of the Whole

**Brief\***

SB 471, as amended, would implement several new electronic filing (e-filing) and payment provisions relative to sales and withholding taxes and certain paid individual income tax preparers; would expand the adoption income tax credit retroactively; would enact a new income tax credit relative to certain expenses incurred in making living organ donations, and would enact a new carbon mitigation incentive tax (CMIT).

E-Filing Provisions

One e-filing provision would reduce from \$100,000 to \$45,000 the minimum annual level of sales and withholding tax remittances beyond which electronic filing may be mandated.

A second stipulation would require that paid individual income tax preparers submitting 50 or more returns per year to file at least 75 percent of such returns electronically. This requirement could be waived for paid preparers who successfully demonstrate a hardship to the Secretary of Revenue.

Adoption Income Tax Credit Expansion

The bill also would expand the current adoption income tax credit retroactively to tax year 2004 such that eligible taxpayers would be able to claim both the state's piggybacked version of the federal tax credit available under section 23 of the Internal Revenue Code as well as an additional \$1,500 state credit

---

\*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>

available under certain circumstances for the adoption of children in the custody of the Secretary of Social and Rehabilitation Services or special-needs children. Current law authorizes either the piggybacked credit or the \$1,500 credit, but not both.

#### Organ Donation Income Tax Credit

An additional provision of the bill would authorize retroactive to tax year 2007 a new refundable income tax credit equal to unreimbursed expenditures of taxpayers or taxpayers' dependents up to \$10,000 related to the donation, while living, of human organs. Organ would be defined to include all or part of a liver, pancreas, kidney, intestine, lung or bone marrow.

#### CMIT Provisions

The bill also would impose a CMIT on certain coal-fired electricity generating facilities at the rate of \$37 per ton of adjusted carbon dioxide emissions for total net megawatt hours production in the prior calendar year in excess of 110 percent of the statewide average for all electric facilities. The Secretary of Health and Environment would be responsible for administering, enforcing, and collecting the tax.

A qualified taxpayer, defined generally as the utility with the lowest adjusted carbon dioxide emissions in the prior year, would be eligible to claim an income tax credit equal to the total amount of CMIT collected from all utilities. The income tax credit would be non-refundable but could be carried forward for up to ten years or transferred to other taxpayers under certain circumstances, or both carried forward and transferred.

#### **Background**

The original bill, which dealt only with the e-filing subject matter, was requested for introduction and supported by the Department of Revenue. Secretary Wagnon said that the e-

filing initiatives were among the most important legislative priorities for her agency in 2008.

The Senate Assessment and Taxation Committee amended the bill to clarify that the Department of Revenue could not mandate individual income taxpayers to e-file; and to reduce from 90 to 75 percent the minimum number of returns which have to be e-filed by tax preparers submitting at least 50 returns. The latter amendment was suggested by Senator Bruce.

After being referred back to Committee for further consideration, the Senate Committee on February 13 further amended the bill to remove a provision that would have authorized the Secretary of Revenue to mandate e-filing by businesses of certain excise tax returns.

The Senate Committee of the Whole on February 20 amended the bill to increase from \$32,000 to \$45,000 the minimum annual level of sales and withholding taxes above which e-filing may be required.

The House Taxation Committee amended the bill on March 24 to add the language authorizing the Secretary of Revenue to waive the e-filing requirement for paid preparers demonstrating a hardship; the adoption income tax credit provisions from HB 2931; and the organ donation income tax credit provisions from HB 2362.

The House Committee of the Whole on March 31 added the CMIT excise and income tax credit provisions.

The e-filing provisions would be expected to increase SGF receipts by \$1.0 million in FY 2009 because of a reduction in interest paid on income tax refunds processed after 60 or more days. The retroactive adoption income tax credit provisions would be expected to decrease receipts by \$0.2 million. The organ donation income tax credit would be expected to decrease receipts by \$1.0 million per year but would decrease FY 2009 receipts by \$2.0 million because of being retroactive

to tax year 2007. The net fiscal impact of the House Taxation Committee version of the bill is therefore expected to be a reduction in receipts of \$1.2 million in FY 2009.

The fiscal impact of the CMIT excise and income tax credit provisions was not immediately known, but Representative Aurand, who offered the amendment, said that the provisions were designed to be revenue-neutral.