

SESSION OF 2004

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2544**

As Amended by House Committee of the Whole

**Brief\***

HB 2544, as amended, would make a number of sales and franchise tax policy changes. A number of new sales tax exemptions would be enacted, effective January 1, 2005, and the filing requirement also would be decelerated for certain retailers. The bill also would make various franchise tax amendments effective for FY 2005.

***Sales Tax Provisions***

Exemptions would be extended to:

- ! sales and purchases of the Heartstrings Community Foundation for the purpose of providing training, employment, and activities for adults with developmental disabilities;
- ! sales of property and services purchased by or on behalf of domestic violence shelters that are member agencies of the Kansas Coalition Against Sexual and Domestic Violence;
- ! sales of all property to certain contractors for use in preparing certain meals for delivery to homebound elderly or disabled persons or to be served at a group-sitting for such individuals at a location outside of the home or for consumption by indigent or homeless individuals;
- ! sales and purchases of the Cystic Fibrosis Foundation, Heart of America Chapter, for the purposes of assuring the development of the means to cure and control cystic fibrosis and improving the quality of life for those with the disease;
- ! certain sales of hearing aids and replacement parts (including batteries) therefor, by persons licensed in the practice of

---

\*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>

dispensing and fitting hearings aids;

- ! certain sales and purchases of the Spina Bifida Association of Kansas;
- ! certain sales relating to aircraft repair, modification, and replacement parts, including sales of labor services;
- ! certain sales of property and services purchased by contractors from July 2003, through June 2004, in connection with a community-based mental retardation or mental health facility located in Riverton; and
- ! certain computer software customization services.

The bill also would decelerate from monthly to quarterly the sales tax filing requirements for retailers with annual liability of \$1,600 to \$3,200.

#### ***Franchise Tax Provisions***

The bill further would reduce the effective rate of the franchise tax from 0.2 percent of shareholder equity or net worth to 0.1 percent.

The bill also would provide an exemption for entities with less than \$1 million of shareholder equity or net worth.

The maximum liability "cap" of \$5,000 under current law would be increased to \$25,000.

Administration of the franchise tax based on shareholder equity or net worth would be relocated from the Secretary of State to the Department of Revenue. Corporations and associations, limited liability companies, limited partnerships, and business trusts would be required to file annual returns with the Director of Taxation and remit the franchise tax liability before April 15 of each year. Franchise tax revenues would continue to be deposited directly in the State General Fund.

The Secretary of State's Office would maintain a separate annual franchise fee of \$40 for for-profit and not-for-profit entities. Franchise fees collected by the Secretary of State would be deposited in a new fee fund created by the bill.

## Background

The original bill contained only an exemption for Miniature Fantasies, Inc. The House Taxation Committee amended the bill to strike that proposed exemption and to incorporate the provisions of HB 2550 (domestic violence shelters); HB 2650 (Heartstrings Community Foundation); HB 2866 (Meals on Wheels purchases); HB 2175 (Cystic Fibrosis Foundation); HB 2084 (certain hearing aids); and an additional exemption for the Spina Bifida Association of Kansas. The Committee also amended the bill to change the proposed effective date to January 1, 2005.

The House Committee of the Whole added the exemptions for computer software customization services; aircraft repair and replacement parts; and certain purchases for the facility in Riverton. The Committee of the Whole also added the amendment relative to the deceleration of sales tax filing requirements; and the franchise tax provisions similar to those proposed in HB 2842 as introduced.

Fiscal notes provided by the Department of Revenue on the various sales tax provisions are as follows for FY 2005 and FY 2006:

(\$ in millions)

<u>FY 2005</u>	<u>All Funds</u>	<u>SGF</u>	<u>SHF</u>
Heartstrings Community Foundation	minimal	minimal	minimal
Domestic Violence Shelters	(\$0.053)	(\$0.051)	(\$0.003)
Home Delivery of Certain Meals	(\$0.025)	(\$0.024)	(\$0.001)
Cystic Fibrosis Foundation	minimal	minimal	minimal
Spina Bifida Association	minimal	minimal	minimal
Hearing Aids and Replacement Parts	(\$0.091)	(\$0.086)	(\$0.004)
Aircraft Repair and Replacement Parts	(\$0.700)	(\$0.667)	(\$0.033)

Facility in Riverton	minimal	minimal	minimal
Computer Customization Services	(\$4.500)	(\$4.288)	(\$0.212)
Filing Deceleration	(\$1.800)	(\$1.715)	(\$0.085)
Total	(\$7.169)	(\$6.830)	(\$0.338)

<u>FY 2006</u>	<u>All Funds</u>	<u>SGF</u>	<u>SHF</u>
Heartstrings Community Foundation	minimal	minimal	minimal
Domestic Violence Shelters	(\$0.110)	(\$0.105)	(\$0.005)
Home Delivery of Certain Meals	(\$0.052)	(\$0.049)	(\$0.002)
Cystic Fibrosis Foundation	minimal	minimal	minimal
Spina Bifida Association	minimal	minimal	minimal
Hearing Aids and Replacement Parts	(\$0.187)	(\$0.178)	(\$0.009)
Aircraft Repair and Replacement Parts	(\$1.449)	(\$1.381)	(\$0.068)
Facility in Riverton	minimal	minimal	minimal
Computer Customization Services	(\$9.315)	(\$8.876)	(\$0.439)
Filing Deceleration	--	--	--
Total	(\$11.113)	(\$10.589)	(\$0.524)

The franchise tax provisions would be expected to decrease FY 2005 SGF receipts by \$3.91 million but increase the new fee fund receipts by \$3.91 million, making the overall fiscal impact of the franchise tax provisions revenue neutral.