REVISED
SESSION OF 2004

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2918

As Amended by House Committee of the Whole

Brief*

HB 2918, as amended, concerns the Comprehensive Transportation Program (CTP). The bill provides for funding of the CTP through the issuance of revenue bonds and changes in the sales tax rate and disposition of revenue.

Bonding provisions. These provisions would:

- authorize the Kansas Development Finance Authority (KDFA) to fund a portion of the CTP by issuing revenue bonds in an amount necessary to provide a deposit or deposits in a total amount not to exceed $150,000,000 to the State Highway Fund (SHF), plus amounts to pay the costs of the bonds, including credit enhancements, and provide reserves required for the bonds;
- require the Secretary of Transportation and the State Finance Council to approve the principal amount, interest rates and final maturity of the revenue bonds and any bonds issued to refund the bonds or parameters for the principal amount, interest rates and final maturity;
- require the revenue bonds and interest (backed by the State General Fund) to be payable from money appropriated by the state;
- require that the bonds and interest be an obligation only of the KDFA;
- allow the KDFA to pledge the contract or contracts to pay for the redemption of the bonds and covenant as to the use and disposition of money available to the KDFA for payment of the

*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 bonds;

- require the proceeds from the sale of bonds, other than refunding bonds, after payment of costs related to the issuance of the bonds, to be paid by the KDFA to the Kansas Department of Transportation (KDOT) to be applied to the payment of the construction projects authorized by the CTP;

- pledge and covenant that the state would not limit or alter the rights or powers of the KDFA, the Department of Administration (DOA), or KDOT, in a manner that would jeopardize the interest of the bondholders or any trustee of the holders;

- provide that failure of the Legislature to appropriate moneys for any purpose would not constitute a violation of the state's pledge and covenant;

- authorize the KDFA to specifically include this pledge and covenant in a bond resolution, trust indenture, or agreement for the benefit of the bond holders;

- allow the issuance of the bonds without the consent of any department, division, commission, board or agency of the state, other than approvals of the State Finance Council;

- allow the issuance of the bonds without any other proceeding or the occurrence of any other conditions or other things other than those proceedings, conditions or things which are specifically required by the Kansas Development Finance Authority Act;

- authorize the DOA and the KDFA to enter into contracts to implement the payment arrangement;

- require the contracts to provide for payment of the amounts required to be paid and set forth the procedure for the transfer of moneys to pay the moneys;

- provide that the contracts contain terms and conditions including the principal amount, interest rates, and final maturity as approved by the State Finance Council and would include, but not be limited to, terms and conditions necessary to provide repayment of and to secure bonds issued by the KDFA;

- provide that approvals of the State Finance Council would be characterized as matters of legislative delegation and subject to the guidelines set forth in the bill;

- allow approvals of the State Finance Council when the Legislature in not in session; and

- provide that no bonds could be issued before a review of and the recommendation to the State Finance Council of the issuance by the standing committees of transportation of the House of Representatives and the Senate.

Pursuant to a Committee of the Whole amendment, if the incremental increases in the amount of federal funds estimated to be available to fund the CTP projects for fiscal years 2005 through 2009 by the congressional reauthorization of the federal highway programs are less than anticipated federal receipts, the KDFA would be authorized to issue revenue bonds. The bonds would be in an amount necessary to provide a deposit or deposits not to exceed the lesser of the federal shortfall or $90,000,000 to the SFH. The purpose of the bonds would be to off-set shortfalls in anticipated federal receipts. The issuance would be subject to review and recommendation by the Legislative Budget Committee.

Sale Tax Rate and disposition of revenue provisions. These provisions would extend indefinitely the present 5.3 percent state sales and compensating use tax rate which is scheduled under current law to be reduced to 5.0 percent on July 1, 2006. An increased portion of the sales and use tax rate also would be earmarked for deposit in the SHF. Under current law, 5/106 (one quarter cent) is deposited in the SHF. The bill would expand the earmarking to 19/265 (0.38 cents) in FY 2007; and 13/106 (0.65 cents) in FY 2008 and thereafter. Finally, the bill would repeal a statute that provides for a transfer to the SHF 12 percent of sales and use taxes which are deposited initially in the SGF.

Background

Conferees who testified in support of the bill before the House Transportation Committee included representatives of Economic Lifelines of Kansas; KDOT; Kansas Aggregate Producers' Association and Kansas Ready Mixed Concrete Association; Kansas Society of Professional Engineers; Kansas Consulting Engineers; The Heavy Constructors Association; and Kansas Contractors Association. No one presented testimony against the bill.

Fiscal implications. The total change in revenues relative to current law based on the tax rate extension and the additional diversion of receipts to the State Highway Fund would be as follows, based on the November, 2003 consensus estimate:

($ in millions)

	Total New Revenue	SGF	SHF
FY 2007	$111.419	$58.748	$52.671
FY 2008	$125.802	($41.934)	$167.735
FY 2009	$130.204	($43.401)	$173.605
FY 2010	$134.762	($44.920)	$179.682
FY 2011	$139.479	($46.492)	$185.971
5-Year Total	$641.666	($117.999)	$759.664

Based on the November, 2003 consensus estimate, the repeal of the transfer would be expected to have the following impact:

($ in millions)

	SGF	SHF
FY 2005	$200.179	($200.179)
FY 2006	$207.508	($207.508)
FY 2007	$206.192	($206.192)
FY 2008	$209.082	($209.082)
FY 2009	$216.400	($216.400)
FY 2010	$223.974	($223.974)
FY 2011	$231.813	($231.813)
Thru FY 2011	$1,495.149	($1,495.149)