

March 2, 2012

REVISED

The Honorable Steve Brunk, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 149-S
Topeka, Kansas 66612

Dear Representative Brunk:

SUBJECT: Revised Fiscal Note for HB 2598 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2598 is respectfully submitted to your committee.

HB 2598 would be known as the No Taxpayer Funding for Abortion Act. The bill would include definitions, and would specifically prohibit, unless required by federal law, expenditures from the State General Fund or from any special revenue fund for any abortion procedure. The bill would also specify that no tax credit could be allowed against any income tax, premium or privilege tax liability and no exemption would be granted from sales or compensating use tax for that portion of such amounts paid or incurred for an abortion, or that portion of such amounts paid or incurred for a health benefit plan, including premium assistance, for the purchase of an optional rider for coverage of abortion. For taxable years beginning after December 31, 2011, no credit would be allowed for any amounts paid by an employer for healthcare, a health benefit plan, or amounts credited to a health savings account for the purchase of an optional rider for coverage of abortion.

In the case of a tax-preferred trust or account which is designed to pay medical expenses of the account beneficiary, any amount paid or distributed from such an account for an abortion would be included in the gross income of the beneficiary. No health care services provided by any state agency or any employee of a state agency could include abortion. No state agency would be allowed to discriminate against any individual or health care facility on the basis that the individual or health care facility does not provide, pay for, or make referrals for abortions. No state agency or municipality would be required to provide or pay for abortion procedures or recognize a right to abortion. These prohibitions would not apply to an abortion which is necessary to preserve the life of the pregnant woman.

HB 2598 would prohibit any doctor from performing an abortion if a pregnant woman is seeking the abortion solely on account of the sex of the unborn child. The bill would allow civil action in response to an abortion performed on a woman under the age of 18 by a husband or

parent unless the woman's pregnancy resulted from criminal conduct. The bill would establish limits for statutory damages, attorney fees, and would also establish fines and penalties for violations.

No school district employee or educational service provider contracting with a school district would be authorized to provide abortion services, or provide human sexuality education by a person who performs abortions. In addition, the bill would establish that civil actions for claims of wrongful life or wrongful birth could not be recovered if the damages sought arose from the claim that a person's action or omission contributed to the minor's mother not obtaining an abortion when a pre-existing condition of the unborn child was known by the mother.

The bill would establish that the term "person" also means an unborn child. The bill includes a definition of "unborn child." Provisions of the bill would not apply to a wrongful death action if the death of an unborn child is the result of an act committed by the mother; an act committed by a physician at the request of the pregnant woman; or, if the death was caused by the lawful dispensation of prescribed medication. HB 2598 would also establish that a "bodily function" refers solely to physical functions and does not include mental or emotional functions. No condition for the pregnant woman would be considered a medical emergency if it is based on a claim or diagnosis that the woman may commit suicide or commit other actions that would cause a substantial and irreversible physical impairment of a major bodily function. Physicians would be required to inform any pregnant woman seeking an abortion of the possible risks associated with the procedure. The physician must also provide a pregnant woman with contact information for free assistance and counseling.

HB 2598 would establish that from 20 weeks after fertilization, the unborn child can experience pain. For pregnancies of ten weeks or more, the technician would use a fetal monitor so that the pregnant mother hears the unborn child's heartbeat. The bill would require the display of a sign in any facility that performs abortions to include the address for the pregnancy resources website published and maintained by the Kansas Department of Health and Environment (KDHE). Other information required to be posted would be that it is unlawful for anyone to force a pregnant woman to have an abortion; the father of the unborn child would be required to provide support for the child; and, if the pregnant woman qualifies, Medicaid funding could be used to pay for childbirth and assistance after the child is born. Printed materials to be made available for pregnant women would include information regarding fetal pain, risks associated with abortion procedures, alternatives to abortion, responsibilities of the child's father, public and private agencies that can provide assistance, and a detailed description of the developmental stages of an unborn child.

The bill would require that any physician who performs an abortion after the 22 week gestation period must have a documented referral from another physician not legally or financially affiliated with the physician performing the abortion that clearly states that the abortion is necessary to preserve the life of the mother. A father of an unborn child would only have the right to consent to an adoption or refuse consent and raise the child if he would agree to support the mother during the last six months of the pregnancy. The bill would also establish restrictions on the determination of federal adjusted gross income paid for medical care effective

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December 31, 2011, for abortion procedures or abortion riders provided as part of a health insurance policy.

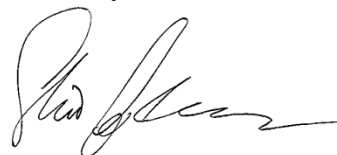
HB 2598 would also prohibit deferred maintenance provided to institutions of higher education to be used for any maintenance, repair, reconstruction, or rehabilitation of any building in which abortions are performed. The bill would also prohibit tax exemptions for any drugs used in the performance of abortion procedures, any property purchased by a not-for-profit organization that performs abortions, or any personal property or services purchased by a primary care clinic or health center that performs abortions.

Finally, the bill would amend current tax law to include restrictions on the sale of game birds for which the primary purpose is hunting.

Estimated State Fiscal Effect				
	FY 2012 SGF	FY 2012 All Funds	FY 2013 SGF	FY 2013 All Funds
Revenue	--	--	--	--
Expenditure	--	--	--	\$16,500
FTE Pos.	--	--	--	--

The passage of HB 2598 could have a fiscal effect on the Board of Healing Arts should there be an increase in complaints and investigations; however, the Board is not able to estimate how many complaints would be received or investigations scheduled. The Department of Health and Environment would be required to update and reprint the statutorily required Woman's Right to Know Materials at a cost of \$16,500 for programming, media and legal work, printing and supplies. The Department of Revenue indicates that the fiscal effect of the bill on State General Fund revenues would be negligible. No information is available to accurately estimate the number of taxpayers who would be required to add expenses to income, lose credits due to expenses or donations being disallowed, or the amount of sales taxes collected due to the loss of a sales tax exemption. Any fiscal effect associated with HB 2598 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Aaron Dunkel, KDHE
Mary Rinehart, Judiciary
Cathy Brown, Healing Arts
Steve Neske, Revenue