

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2641

As Amended by Senate Committee of the Whole

Brief*

HB 2641, as amended, would disallow a Kansas individual income tax deduction relative to certain property tax and assessments paid in other states by residents of those states when such states have similarly prevented Kansas residents from claiming property taxes and assessments paid in Kansas as income tax deductions. The disallowance, which is structured as an additional modification to federal adjusted gross income prior to the determination of Kansas adjusted gross income, would be retroactive to tax year 2007.

The bill also would enact a number of new sales tax exemptions, most of which would be extended to certain groups organized as not-for-profit entities pursuant to Section 501(c)(3) of the federal Internal Revenue Code. Exemptions would be provided for:

- Purchases by The Mirror, Inc., used for providing substance abuse treatment, including certain indirect purchases made by contractors relative to constructing, maintaining, repairing, enlarging, furnishing, or remodeling the facilities of such group;
- Entry or participation fees, charges or tickets by Guadalupe Health Foundation for such group's annual fund-raising event for the purpose of providing health care services for uninsured workers;
- Certain sales by or on behalf of the Steve King Foundation to provide assistance to dirt track race car drivers, pit crew

*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>

members, track officials and their families who are seriously ill, injured or killed, as well as sales by or on behalf of such foundation to obtain and maintain certain safety equipment;

- Certain purchases made by or on behalf of Community Services of Shawnee, Inc. for construction of facilities to provide food and clothing to the needy;
- Purchases by or on behalf of educational foundations for the purpose of providing support for educational programs and services offered by public or private elementary or secondary schools, as well as all sales by or on behalf of such foundations for such purposes;
- Purchases by Kansas Legal Services, Inc., for the provision of legal, mediation, and employment training services to low-income individuals and families;
- Purchases by or on behalf of Wayside Waifs, Inc., relative to an annual fund-raising event to support the care of homeless and abandoned animals, animal adoption efforts, education programs for children, efforts to reduce animal over-population, and animal welfare services, as well as all sales by or on behalf of such group (including entry or participation fees or charges);
- Purchases by or on behalf of Kansas CASA Association, Inc., and its member programs, to support and promote the growth, development, and continuation of local CASA programs providing advocacy services on behalf of children and youth involved in the court system, as well as all sales by or on behalf of such organizations for such purposes;
- Purchases by or on behalf of St. Francis Community Services, Inc.; St. Francis Community and Residential Services, Inc.; St. Francis Community and Family Services, Inc.; and St. Francis Community Outreach Services, Inc., (including for construction of facilities) to provide emergency care, shelter, and treatment for abused and neglected children and families and additional critical needs of

children, juveniles and families, as well as all sales by or on behalf of such organizations for such purposes;

- Purchases by or on behalf of the East Central Kansas Economic Opportunity Corporation to focus public and private resources to enable low-income families and individuals to attain certain skills, knowledge, attitudes, and motivations needed to become self-sufficient, as well as all sales by or on behalf of such organization for such purposes;
- Purchases by or on behalf of certain senior service centers to enhance the lives of older people, to help them remain active in community and civic affairs, and to continue to live independently in their homes, as well as all sales by or on behalf of such organizations for such purposes;
- Certain purchases, retroactive to January 1, 2007 (including for construction of facilities) made by or on behalf of the Paola Senior Center; and
- Sales of admissions or tickets to annual county fairs held by county fair associations to support the education and encouragement of improvement in agriculture and other activities of citizens of the county.

The bill also would make permanent (by repealing a June 30, 2009 sunset provision) a sales tax exemption for cash rebates granted by manufacturers to purchasers or lessees of new motor vehicles, provided such rebates are paid directly to retailers.

An additional amendment would be provided for purchases by certain non-public broadcasting stations licensed by the Federal Communications Commission.

Background

Missouri enacted a law in 2007 that prevents a state income tax deduction relative to property taxes paid in other states, including Kansas. That deductibility elimination provision is expected to increase Missouri income taxes on a number of Kansans working in Missouri; and reduce Kansas income tax receipts because of the credit available to Kansans for taxes paid to other states. An analysis conducted by the Kansas Department of Revenue over the summer indicated that as many as 50,000 Kansans might be affected by the provision; and that State General Fund receipts would decrease by approximately \$5 million per year.

Representative Kenny Wilk subsequently asked Kansas Attorney General Paul Morrison whether Missouri's law violated the Privileges and Immunities Clause of the *United States Constitution*; and whether Kansas could seek immediate intervention by the U.S. Supreme Court. The Attorney General noted on September 27 that he believed the Missouri law "would most likely pass constitutional muster because of the deference given by the courts" to states in limiting deductions in this fashion.

The original bill dealt with the income tax reciprocity issue. The Senate Assessment and Taxation Committee amended the bill to incorporate many of the sales tax exemption provisions also contained in SB 592; and the provisions of SB 550 relating to the car rebates.

The Senate Committee of the Whole added the exemption for certain non-public broadcasting stations.

The Department of Revenue indicated that the income tax reciprocity provisions would be expected to increase FY 2009 State General Fund receipts by about \$5 million. About 78,000 Missouri residents would incur higher Kansas income tax liability of \$2.5 million per year. Since the legislation is retroactive to tax year 2007, amended returns would be required to be filed by affected Missourians for that year.

The Department also indicated that an additional \$0.142 million in additional administrative costs would be incurred in FY 2009 relative to the Governor's Budget recommendations if these income tax provisions were to be enacted.

Based on the latest information available, the Department indicated that the bill would be expected to have the following impact on receipts:

(\$ in millions)

	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	5-Yr Total
Income Tax Reciprocity	\$5.000	\$2.500	\$2.650	\$2.809	\$2.978	\$15.937
The Mirror	-\$0.050	-\$0.052	-\$0.054	-\$0.056	-\$0.058	-\$0.271
Shawnee Community Services	-\$0.056	-\$0.058	-\$0.061	-\$0.063	-\$0.066	-\$0.303
Steve King Foundation	minimal	minimal	minimal	minimal	minimal	minimal
Guadalupe Health Foundation	-\$0.011	-\$0.011	-\$0.012	-\$0.012	-\$0.013	-\$0.060
Educational Foundations	-\$0.025	-\$0.026	-\$0.027	-\$0.028	-\$0.029	-\$0.135
Kansas Legal Services	-\$0.017	-\$0.018	-\$0.018	-\$0.019	-\$0.020	-\$0.092
Wayside Waifs	-\$0.008	-\$0.008	-\$0.009	-\$0.009	-\$0.009	-\$0.043
Kansas CASA Association	-\$0.030	-\$0.031	-\$0.032	-\$0.034	-\$0.035	-\$0.162
St. Francis Community Services	-\$0.175	-\$0.182	-\$0.189	-\$0.197	-\$0.205	-\$0.948
Kansas Eco. Opportunity Corp.	-\$0.014	-\$0.015	-\$0.015	-\$0.016	-\$0.016	-\$0.076
Paola Senior Center	-\$0.005	---	---	---	---	-\$0.005
Other Senior Centers	-\$1.000	-\$1.040	-\$1.082	-\$1.125	-\$1.170	-\$5.416
County Fair Admissions	-\$0.055	-\$0.057	-\$0.059	-\$0.062	-\$0.064	-\$0.298
Car Manufacturers' Rebates	---	-\$7.000	-\$7.100	-\$7.300	-\$7.400	-\$28.800
Certain Broadcasting Stations	-\$0.075	-\$0.076	-\$0.078	-\$0.080	\$0.081	-\$0.228
Total Sales Tax Fiscal Note	-\$1.521	-\$8.575	-\$8.737	-\$9.001	-\$9.005	-\$36.838
Sales Tax SGF Impact	-\$1.334	-\$7.523	-\$7.665	-\$7.897	-\$7.900	-\$32.320
Sales Tax SHF Impact	-\$0.187	-\$1.052	-\$1.071	-\$1.104	-\$1.104	-\$4.518
Total Fiscal Impact	\$3.479	-\$6.075	-\$6.087	-\$6.192	-\$6.027	-\$20.901
SGF Fiscal Impact	\$3.666	-\$5.023	-\$5.015	-\$5.088	-\$4.923	-\$16.384
SHF Fiscal Impact	-\$0.187	-\$1.052	-\$1.071	-\$1.104	-\$1.104	-\$4.518