SESSION OF 2007

CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2264

As Agreed to April 2, 2007

Brief*

Senate Sub. for HB 2264 would phase out the corporation franchise tax over five years. Beginning in tax year 2007, the exemption threshold would be increased from $100,000 of net worth to $1 million of net worth. The rate subsequently would be reduced from the current $1.25 per $1,000 of shareholder equity or net worth to $0.9375 in tax year 2008; $0.625 in tax year 2009; and $0.3125 in tax year 2010. The tax would be repealed altogether effective in tax year 2011.

Conference Committee Action

Both chambers originally had addressed the franchise tax issue in HB 2031.

The House version of HB 2264 dealt with Social Security income taxation; the Homestead program; and the earned income tax credit. The Senate version dealt with certain Johnson County sales tax provisions.

The Conference Committee agreed to remove all previous provisions from the bill and include the aforementioned franchise tax elimination.

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*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at http://www.kslegislature.org/klrd

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Background

Originally enacted in 1866, the corporation franchise tax was the third tax enacted in the state's history. From 1866 through 1912, various charter and miscellaneous fees were required to be paid by corporations. From 1913 to 1971, the tax ranged from $10 for less than $10,000 of paid-up capital stock to $2,500 for over $5 million of paid-up capital stock. From 1972 to 2001, the tax was set at $1 per $1,000 or corporation's shareholder's equity attributable to Kansas, with a minimum tax of $20 and a maximum of $2,500. (Legislation enacted in the 1990s required limited liability companies (LLCs) to pay $1 per $1,000 of net capital accounts located in or used in the state, also with a minimum tax of $20 and a maximum of $2,500. One-member LLCs taxed as sole proprietorships pay $1 per $1,000 of net book value as calculated on an income tax basis.)

An omnibus tax bill enacted in 2002 sought to effectively double the amount of revenues received under the corporation franchise tax. The tax was increased to $2 per $1,000 of shareholder equity up to a maximum of $5,000. This law remained in effect for tax years 2002 and 2003.

Legislation enacted in 2004 subsequently made numerous structural changes in the franchise tax, effective for tax year 2004 and thereafter. The rate of the tax was reduced from $2 per $1,000 of shareholder equity or net worth to $1.25. The maximum liability cap of $5,000 also was increased to $20,000; and a new exemption was provided for entities with equity or net worth of $100,000 or less. (In addition to the exemption for entities with net worth of $100,000 or less, banks, insurance companies, savings and loans, firemen's relief associations, and certain venture capital companies also are exempt from the tax.)

Administration of the franchise tax based on shareholder equity or net worth also was relocated in that 2004 legislation from the Office of the Secretary of State to the Department of Revenue. Corporations and associations, limited liability companies, limited partnerships, and business trusts are now required to file annual returns with the Director of Taxation and remit the franchise tax liability before April 15 of each year. The franchise tax is deposited in the State General Fund (SGF) and is scheduled to produce an estimated $44 million for FY 2008.

The Secretary of State's Office maintains a separate annual report fee of $40 for for-profit and not-for-profit entities. This $40 fee is deposited in SGF and produces about $4 million per year.

The Secretary of State also collects a $10 administrative fee and a $5 technology fee on all annual reports of for-profit entities pursuant to statutory authority contained in KSA 75-438 and 75-444. These fees are deposited in fee funds.

The bill would be expected to reduce SGF receipts by the following amounts:

($ in millions)

FY 08	-$7.0
FY 09	-$16.5
FY 10	-$26.5
FY 11	-$37.0
FY 12	-$48.0
5 yr-total	-$135.0

corporation franchise tax