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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

August 1, 2017

The Honorable Steven Johnson, Chairperson
House Committee on Taxation
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Johnson:

SUBJECT: Fiscal Note for HB 2250 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2250 is respectfully submitted to your committee.

Calculations for Kansas income taxes are based on the Kansas adjusted gross income, which is calculated by adding or subtracting certain types of income from the federal adjusted gross income. HB 2250 would require non-wage business income to be included as income for Kansas income tax purposes beginning in tax year 2017. The bill would allow all non-wage business losses to be claimed for Kansas income tax purposes. The bill does not include allowing federal net operating loss carry forward on a Kansas return or sunset the other additional business modifications including self-employment taxes, self-employment pensions, self-employment health insurance, domestic production activities, Christmas tree sales, and qualified livestock sales. The bill would allow individual income taxpayers that receive qualified income from a business entity to be eligible for a subtraction modification equal to 10.0 percent of federal adjusted gross income for each full-time employee. The subtraction modification would be allowed for up to ten employees or up to a 100.0 percent exemption for qualified income.

The bill would provide a formula that allows for the reduction in the sales tax rate on food and food ingredients beginning in FY 2018. When the state maintains a 7.5 percent ending balance in the Budget Reduction Fund and after certain State General Fund receipts have grown from the immediately preceding fiscal year, then any extra receipts would be used to calculate the food sales tax rate reductions that would go into effect on January 1st of the following year. Food and food ingredients are defined as substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients would not include alcoholic beverages, tobacco, candy, dietary supplements, soft drinks, or food sold through vending machines, or bottled water. Food and food ingredients would specifically include bottled water. The bill provides specific definitions for bottled water, candy, food sold through vending machines, prepared food, soft drinks, and dietary supplements. Once the state sales tax is eliminated on food and food ingredients, local governments would no longer be able to charge a local sales tax on food and food ingredients.

Estimated State Fiscal Effect				
	FY 2018 SGF	FY 2018 All Funds	FY 2019 SGF	FY 2019 All Funds
Revenue	$335,900,000	$335,900,000	$262,500,000	$262,500,000
Expenditure	$151,200	$151,200	--	--
FTE Pos.	--	--	--	--

The Department of Revenue estimates HB 2250 would increase State General Fund revenues by $335.9 million in FY 2018 and by $262.5 million in FY 2019. The fiscal effect to state revenues during subsequent years would be as follows:

	FY 2020	FY 2021	FY 2022
State General Fund	$266,500,000	$270,500,000	$274,500,000

The Department of Revenue indicates that State General Fund estimates for FY 2018 and FY 2019 are based on the Consensus Revenue Estimate. State General Fund revenues in the out years assume a 1.0 percent annual growth rate. The bill is retroactive and the fiscal effect is based on taxing certain non-wage business income beginning on January 1, 2017. The estimate for FY 2018 includes 100.0 percent of tax year 2017 tax liability and 30.0 percent of tax year 2018 tax liability. The estimate for FY 2019 includes 70.0 percent of tax year 2018 tax liability and 30.0 percent of tax year 2019 tax liability.

The Department does not have an official estimate for a food sales reduction since a new food sales tax rate has to be certified based on unavailable data. The earliest this change can occur is in FY 2018. For every 0.1 percent reduction in the sales tax on food, there is estimated to be an approximate $6.0 million decrease in annual sales tax collections. That estimate assumes that 15.0 percent of all current sales tax collections are collected on food and food ingredients. This bill would not have a fiscal effect on local sales tax revenues until after the state sales tax is eliminated on food and food ingredients. The Streamlined Sales Tax Agreement requires once a taxable item is fully exempt from state sales taxes, it would also be exempt from local sales taxes. It is unknown when the state sales tax on food and food ingredients would be eliminated under the provisions of the bill.

The Department indicates that the bill would require $151,200 from the State General Fund in FY 2018 to implement the bill and to modify the automated tax system. The bill would require changes to sales tax forms and publications and modifications to the sales tax processing system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. However, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Administration indicates that adjusting state income tax collections has the potential to have a fiscal effect on the amount of revenue collected from its debt setoff program. This program intercepts individual income tax refunds and homestead tax refunds and applies those amounts to debts owed to state agencies, municipalities, district courts, and state agencies in other states. Debts include, but are not limited to child support, taxes, educational expenses, fines, services provided to the debtor, and court ordered restitution. As the dollar amounts of refunds are decreased, the amount available for possible debt setoffs is also reduced. However, the Department is unable to make an estimate of the amount of debt setoffs that will no longer be intercepted as a result of the bill. Any fiscal effect associated with HB 2250 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget