

February 20, 2023

The Honorable Adam Smith, Chairperson  
House Committee on Taxation  
300 SW 10th Avenue, Room 346-S  
Topeka, Kansas 66612

Dear Representative Smith:

**SUBJECT:** Fiscal Note for HB 2316 by House Committee on Taxation

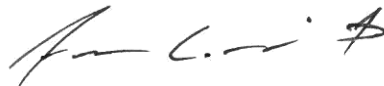
In accordance with KSA 75-3715a, the following fiscal note concerning HB 2316 is respectfully submitted to your committee.

HB 2316 would modify the net operating loss deduction for Kansas income tax purposes. The bill would allow a Kansas net operating loss to be carried back three years if a net operating loss was incurred from the sale at a loss of a historic hotel that was improved using funds borrowed on both the historic hotel and farmland, and previously, the farmland was sold at a gain to pay off the mortgage of the historic hotel. The bill requires that the historic hotel be located in a community with less than 2,500 citizens and be within 20 miles of the farmland. The bill would be retroactive to tax year 2006 and would allow a taxpayer to file an amended return for the three prior years and be paid a refund with interest.

The Department of Revenue indicates HB 2316 would allow a single taxpayer to claim a refund for Kansas income taxes paid on the capital gains of farmland sold in a year prior to 2006, to help offset the net operating loss that occurred from the sale of a historic hotel that occurred in tax year 2006. The loss incurred by this taxpayer is a "capital loss." The Internal Revenue Service (IRS) allows this type of capital loss to be claimed in the year it occurs. If it was a net operating loss, the IRS would allow a carry back and a carry forward of the loss. For Kansas income tax purposes, net operating losses for individual income taxpayers were repealed effective in tax year 2013. Prior to tax year 2013, net operating losses were allowed to be carried forward, but could not be carried back to any prior tax year. This bill would create a retroactive exception to those rules for one individual income taxpayer. The Department of Revenue indicates the bill would decrease state revenues to the State General Fund; however, without a waiver of confidentiality from the taxpayer as to such information, the Department cannot provide the specific amount of revenue loss.

The Department of Revenue indicates that it would require a total \$48,907 from the State General Fund in FY 2024 to implement the bill and to modify the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, 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. Any fiscal effect associated with HB 2316 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt  
Director of the Budget

cc: Lynn Robinson, Department of Revenue