

March 3, 2021

The Honorable Adam Smith, Chairperson  
House Committee on Taxation  
Statehouse, Room 185A-N  
Topeka, Kansas 66612

Dear Representative Smith:

**SUBJECT:** Fiscal Note for HB 2394 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2394 is respectfully submitted to your committee.

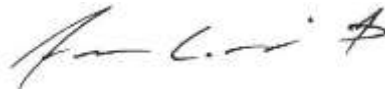
Under current law, only corporate taxpayers are allowed to claim the 6.5 percent research and development tax credit based on the amount above the average of actual qualified research and development expenses in the tax year and the previous two tax years. However, the taxpayer is only allowed to claim 25.0 percent of the tax credit in any one tax year and the remaining tax credits can be carried forward to future tax years. HB 2394 would allow all taxpayers the ability to claim this tax credit and increases the initial tax credit calculation from 6.5 percent to 10.0 percent beginning in tax year 2021. The bill would also allow taxpayers that do not have a current tax liability the ability to transfer these tax credits. The taxpayer would be required to transfer all of the tax credits and tax credits could only be transferred once. The person receiving the tax credits would not be entitled to a refund from the transferred tax credits and the person would follow the same claiming and carry forward rules for the tax credits. The taxpayer or transferee would be required to notify the Department of Revenue about the tax credit transfer.

Estimated State Fiscal Effect				
	FY 2021 SGF	FY 2021 All Funds	FY 2022 SGF	FY 2022 All Funds
Revenue	--	--	(\$1,020,000)	(\$1,020,000)
Expenditure	--	--	\$149,383	\$149,383
FTE Pos.	--	--	--	1.00

The Department of Revenue estimates that HB 2394 would decrease State General Fund revenues by \$1,020,000 in FY 2022. The Department indicates that similar results would also occur in future fiscal years. To formulate these estimates, the Department reviewed historical data on the research and development tax credit that was available to be claimed by individual taxpayers prior to tax year 2013. The Department indicates that an average of 192 corporate taxpayers have claimed an average of \$3.4 million in research and development tax credits in each of the last three years. The Department estimates the bill will increase the number of filers claiming this tax credit by 30.0 percent, resulting in an additional \$1,020,000 tax credits to be claimed in tax year 2021 or FY 2022.

The Department of Revenue indicates that it would require a total of \$149,383 from the State General Fund in FY 2022 to implement the bill and to modify the automated tax system. The bill would require the Department to hire 1.00 new FTE position to manage the transferability of this tax credit and to answer questions from taxpayers. 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 2394 is not reflected in *The FY 2022 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  
Sherry Rentfro, Department of Commerce