

March 23, 2011

The Honorable Richard Carlson, Chairperson
House Committee on Taxation
Statehouse, Room 274-W
Topeka, Kansas 66612

Dear Representative Carlson:

SUBJECT: Fiscal Note for HB 2358 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2358 is respectfully submitted to your committee.

Under current law, the Kansas Earned Income Tax Credit (EITC) is calculated as 18.0 percent of the federal EITC claimed against the taxpayer's federal income tax liability for tax year 2010 through tax year 2012 and 17.0 percent for tax year 2013 and each tax year thereafter. HB 2358 would reduce the amount of the Kansas EITC to 17.0 percent for tax year 2011 and each year thereafter.

The bill would also decrease the state retail sales and compensating use tax rates from 6.3 percent to 5.3 percent, effective July 1, 2011. The bill would set the amount of state retail sales and compensating use tax to be deposited in the State General Fund at 93/106 (87.736 percent) and the State Highway Fund at 13/106 (12.264 percent). Under current law, the state retail sales and compensating use tax rates and distributions are set to be adjusted as follows:

<u>Date of</u>		<u>Percent to</u>	<u>Percent to</u>
<u>Rate Change</u>	<u>Tax Rate</u>	<u>State General Fund</u>	<u>State Highway Fund</u>
Current law	6.3 %	88.573 %	11.427 %
July 1, 2011	6.3	88.740	11.260
July 1, 2012	6.3	88.767	11.233
July 1, 2013	5.7	81.579	18.421

The bill would also adjust the food sales tax refund program, which is administered through the income tax as a credit, by lowering the income eligibility ceiling from the current \$35,000 to \$31,900 beginning in tax year 2011; the per capita refund amounts would be decreased from \$45 to \$41 in the upper-income tier of the program, and from \$90 to \$84 in the lower-income tier.

Estimated State Fiscal Effect				
	FY 2011 SGF	FY 2011 All Funds	FY 2012 SGF	FY 2012 All Funds
Revenue	--	--	(\$359,590,000)	(\$382,811,000)
Expenditure	--	--	\$76,825	\$76,825
FTE Pos.	--	--	--	--

The Department of Revenue estimates that HB 2358 would decrease state revenues by \$382,811,000 in FY 2012. Of that total, the State General Fund is estimated to decrease by \$359,590,000 in FY 2012, while the State Highway Fund is estimated to decrease by \$23,221,000 in FY 2012. The decrease in revenues and how the November 2, 2010 consensus revenue estimate for FY 2012 would be affected are shown in the following table:

Effect on FY 2012 Consensus Revenue Estimates
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (Nov. 2, 2010)	Change in Revenue FY 2012	Proposed Adjusted CRE FY 2012
Motor Carrier	\$ 27,000	\$ --	\$ 27,000
Income Taxes:			
Individual	2,705,000	8,246	2,696,754
Corporate	275,000	--	275,000
Financial Institutions	21,000	--	21,000
Excise Taxes:			
Retail Sales	2,090,000	(321,856)	1,768,144
Compensating Use	295,000	(45,980)	249,020
Cigarette	97,000	--	97,000
Corporate Franchise	8,000	--	8,000
Severance	94,300	--	94,300
All Other Excise Taxes	96,400	--	96,400
Other Taxes	<u>127,000</u>	<u>--</u>	<u>127,000</u>
Total Taxes	\$5,835,700	(\$ 359,590)	\$5,476,110
Other Revenues:			
Interest	\$ 11,800	\$ --	\$ 11,800
Transfers	(93,700)	--	(93,700)
Agency Earnings	<u>56,800</u>	<u>--</u>	<u>56,800</u>
Total Other Revenues	(\$ 25,100)	\$ --	(\$ 25,100)
Total Receipts	\$5,810,600	(\$ 359,590)	\$5,451,010

The fiscal effect to state revenues during subsequent years would be as follows:

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>
State General Fund	(\$407,830,000)	(\$27,640,000)	\$8,246,000	\$8,246,000
State Highway Fund	<u>(25,470,000)</u>	<u>(169,760,000)</u>	<u>(189,200,000)</u>	<u>(195,820,000)</u>
	(\$433,300,000)	(\$197,400,000)	(\$180,954,000)	(\$187,574,000)

To formulate these estimates, the Department of Revenue reviewed data on the number of taxpayers and the amount of credits claimed under the Kansas EITC and food sales tax refund program, and data on historic state retail sales and compensating use tax collections. In tax year 2009, the Kansas EITC was 17.0 percent of the federal EITC claimed and 228,000 taxpayers claimed \$81.4 million in tax credits. In tax year 2011, it is estimated that approximately \$88.1 million in tax credits will be claimed with the Kansas EITC calculated at 18.0 percent of the amount of federal EITC claimed. Reducing the amount of the credit to 17.0 percent for tax year 2011, would reduce the amount of credits claimed and increase State General Fund revenues by an estimated \$4,904,000 in FY 2012. The lower amounts for the food sales tax refund program would reduce the amount of refunds claimed and increase State General Fund revenues by an estimated \$3,342,000 in FY 2012. The lower retail lower state retail sales and compensating use tax rates is estimated to reduce revenue by a total of \$391,057,000 in FY 2012, including \$367,836,000 from the State General Fund and \$23,221,000 from the State Highway Fund.

The Department of Revenue indicates the bill would require \$76,825 from the State General Fund in FY 2012 for administrative costs to implement the tax changes; including form changes, revising publications, and modifications to the automated tax system. The Department estimates that the bill would require 1,840 hours of in-house programming and testing which 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, expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Division of the Budget notes that the changes in tax receipts estimated by the Department of Revenue do not account for the potential cumulative effect on other taxes at the state and local level. This fiscal effect does not account for possible increases in revenue from other tax sources as a result of increases to disposable income, economic growth, net migration, or other factors that have the potential to partially or fully offset the reduction in revenue reported by the Department of Revenue. Calculating the cumulative fiscal effect of this legislation would require dynamic scoring analysis, which is not currently used by the Department of Revenue or the Division of the Budget in the preparation of fiscal notes.

The Kansas Department of Transportation (KDOT) indicates the bill would reduce sales tax revenue dedicated to the State Highway Fund by \$23.2 million in FY 2012 and by \$25.5 million in FY 2013. It is estimated that sales tax revenue dedicated to the State Highway Fund would be reduced by a total of \$1.5 billion between FY 2012 and FY 2020, with accompanying expenditure reductions in the same amount over this time period. The reduction in dedicated

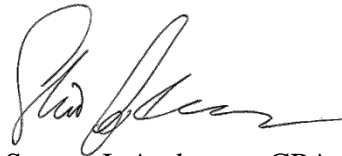
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State Highway Fund revenue would also reduce the amount of bonds that KDOT could issue to finance projects, which would further reduce the number of expansion and modernization projects that could be completed. KDOT indicates the bill would not allow it to fully fund the new ten-year comprehensive transportation plan, known as T-WORKS, which was passed by the 2010 Legislature. Any fiscal effect associated with HB 2358 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Steve Neske, Revenue
Ben Cleeves, Transportation