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Division of the Budget

Sam Brownback, Governor

March 7, 2012

The Honorable Les Donovan, Chairperson
Senate Committee on Assessment and Taxation
Statehouse, Room 123-E
Topeka, Kansas 66612

Dear Senator Donovan:

SUBJECT: Fiscal Note for SB 428 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 428 is respectfully submitted to your committee.

SB 428 would phase out the retail sales tax imposed by the state on food and food ingredients over a four-year period. Food and food ingredients would not include alcoholic beverages, candy, dietary supplements, food sold through vending machines, prepared food, soft drinks, or tobacco. The bill also provides specific definitions for candy, food sold through vending machines, prepared food, and soft drinks. The bill would adjust the state retail sales tax rate on food and food ingredients as follows:

Date of Rate Change	Tax Rate
Current law	6.3 %
July 1, 2012	5.5
July 1, 2013	4.0
July 1, 2014	2.0
July 1, 2015	--

All sales of food and food ingredients would be exempt from all retail sales taxes beginning on July 1, 2015. Cities, counties, and special taxing districts would be allowed to continue to levy local sales taxes on food and food ingredient until July 1, 2015. The bill would also eliminate the Food Sales Tax Refund Program as of July 1, 2014.

Estimated State Fiscal Effect				
	FY 2012 SGF	FY 2012 All Funds	FY 2013 SGF	FY 2013 All Funds
Revenue	--	--	($44,553,000)	($50,191,000)
Expenditure	--	--	$577,140	$577,140
FTE Pos.	--	--	--	--

The Department of Revenue estimates that SB 428 would decrease state revenues by $50,191,000 in FY 2013. Of that total, the State General Fund is estimated to decrease by $44,553,000 in FY 2013, while the State Highway Fund is estimated to decrease by $5,638,000 in FY 2013. The decrease in revenues and how the November 4, 2011 consensus revenue estimate for FY 2013 would be affected are shown in the following table:

Effect on FY 2013 Consensus Revenue Estimates
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (Nov. 4, 2011)	Change in Revenue FY 2013	Proposed Adjusted CRE FY 2013
Motor Carrier	$ 21,000	$ --	$ 21,000
Income Taxes:			
Individual	3,065,000	--	3,065,000
Corporate	240,000	--	240,000
Financial Institutions	24,000	--	24,000
Excise Taxes:			
Retail Sales	2,200,000	(44,553)	2,155,447
Compensating Use	335,000	--	335,000
Cigarette	92,000	--	92,000
Corporate Franchise	6,000	--	6,000
Severance	102,800	--	102,800
All Other Excise Taxes	96,000	--	96,000
Other Taxes	141,000	--	141,000
Total Taxes	$6,322,800	($ 44,553)	$6,278,247
Other Revenues:			
Interest	$ 7,400	$ --	$ 7,400
Transfers	(90,300)	--	(90,300)
Agency Earnings	51,500	--	51,500
Total Other Revenues	($ 31,400)	$ --	($ 31,400)
Total Receipts	$6,291,400	($ 44,553)	$6,246,847

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

	FY 2014	FY 2015	FY 2016	FY 2017
State General Fund	($94,765,000)	($187,662,000)	($281,822,000)	($317,927,000)
State Highway Fund	(21,399,000)	(42,375,000)	(63,637,000)	(71,790,000)
Local Governments	--	--	(86,400,000)	(97,400,000)
	($116,164,000)	($230,037,000)	($431,859,000)	($487,117,000)

To formulate these estimates, the Department of Revenue reviewed data from the Consumer Expenditure Survey published by the Bureau of Labor Statistics of the U.S. Department of Labor, state sales tax reports, and from historical data that shows the average household spends 15.0 percent of its taxable income on food and food ingredients.

The Department of Revenue indicates the bill would require $577,140 from the State General Fund in FY 2013 for administrative costs to update forms and publications and to modify the automated tax system. The Department estimates that the bill would require 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 Department indicates that the bill would require additional administrative costs in future years to adjust food sales tax rates and to adjust the automatic tax system to eliminate the food sales tax rebate program.

The Kansas Department of Transportation (KDOT) indicates the bill would reduce sales tax revenue dedicated to the State Highway Fund by $5,638,000 in FY 2013 and by $21,399,000 in FY 2014. It is estimated that sales tax revenue dedicated to the State Highway Fund would be reduced by a total of $204.8 million between FY 2013 and FY 2017.

The League of Kansas Municipalities indicates that the bill would reduce the amount of local sales tax revenues that are currently collected from food and food ingredients beginning in FY 2016. However, the League does not have data on the amount of food and food ingredients sales tax collections to make a precise estimate of the fiscal effect on local governments. The League indicates that if lower local sales tax revenues are generated as a result of SB 428, then local governments would be required to offset this reduction by increasing local sales tax rates (if additional sales tax rate authority exists) or by increasing the local mill levy to generate additional revenues, or by decreasing expenditures.

Retailers that sell food and food ingredients would be required to break out the amount of food and non-food sales tax collections to ensure that amounts are reported correctly. Retailers would also be required to reprogram cash registers to accommodate the lower sales tax rate for food and food ingredients. Any fiscal effect associated with SB 428 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,

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

cc: Steve Neske, Revenue
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