

May 3, 2013

The Honorable Richard Carlson, Chairperson
House Committee on Taxation
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Carlson:

SUBJECT: Fiscal Note for HB 2286 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2286 is respectfully submitted to your committee.

Current law requires non-wage business losses from sole proprietorships, LLC's, Subchapter S corporations, partnerships, farmers, and trusts to be added back to federal adjusted gross income in the calculation of Kansas adjusted gross income for Kansas income tax purposes beginning in tax year 2013. HB 2286 would eliminate this requirement for tax year 2013 and in each future tax year. The bill would become effective upon its publication in the *Kansas Register*.

Estimated State Fiscal Effect				
	FY 2013 SGF	FY 2013 All Funds	FY 2014 SGF	FY 2014 All Funds
Revenue	--	--	(\$48,200,000)	(\$48,200,000)
Expenditure	--	--	--	--
FTE Pos.	--	--	--	--

The Department of Revenue estimates that HB 2286 would decrease State General Fund revenues by \$48.2 million in FY 2014. The decrease in revenues and how the April 19, 2013 consensus revenue estimate for FY 2014 would be affected are shown in the following table:

Effect on FY 2014 Consensus Revenue Estimates
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (April 19, 2013)	Change in Revenue FY 2014	Proposed Adjusted CRE FY 2014
Motor Carrier	\$ 41,000	\$ --	\$ 41,000
Income Taxes:			
Individual	2,400,000	(48,200)	2,351,800
Corporate	370,000	--	370,000

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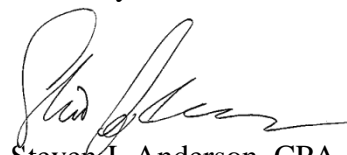
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Financial Institutions	31,000	--	31,000
Excise Taxes:			
Retail Sales	1,920,000	--	1,920,000
Compensating Use	295,000	--	295,000
Cigarette	90,000	--	90,000
Corporate Franchise	6,000	--	6,000
Severance	132,800	--	132,800
All Other Excise Taxes	100,000	--	100,000
Other Taxes	<u>162,000</u>	<u>--</u>	<u>162,000</u>
Total Taxes	\$5,547,800	(\$ 48,200)	\$5,499,600
Other Revenues:			
Interest	\$ 10,400	\$ --	\$ 10,400
Transfers	(159,930)	--	(159,930)
Agency Earnings	<u>56,000</u>	<u>--</u>	<u>56,000</u>
Total Other Revenues	(\$ 93,530)	\$ --	(\$ 93,530)
Total Receipts	\$5,454,270	(\$ 48,200)	\$5,406,070

To formulate these estimates, the Department of Revenue reviewed data on Kansas businesses filing individual Kansas income tax returns. The Department indicates that approximately \$1.5 billion in losses are claimed by Kansas businesses filing individual income tax returns. Using an income tax rate of 3.0 percent, not requiring the add back of these losses would reduce income tax liability in tax year 2013 or FY 2014 by approximately \$45.0 million. Allowing farmers filing as individuals to claim the credit for farm losses is estimated to reduce income tax liability in tax year 2013 or FY 2014 by \$200,000. That estimate is based on the most current information available, which shows that in tax year 2010, there were 34 claims for approximately \$212,000. Allowing Kansas businesses that have net losses and file individual income tax returns to claim the PEAK tax credit would reduce State General Fund revenues in tax year 2013 or FY 2014 by approximately \$3.0 million. The Department indicates that businesses that file an individual income tax return are excluded from claiming the PEAK tax credit beginning in tax year 2013. However, in tax years 2010, 2011, and 2012, approximately 84 businesses received a total of \$10.0 million in PEAK tax credit and filed an individual income tax return. About 28, or 33.0 percent, of these businesses have reported negative income and paid no income taxes in one or all of the years since tax year 2010.

The Department of Revenue indicates that the costs associated with implementing HB 2286 would be negligible and could be absorbed within existing resources. Any fiscal effect associated with HB 2286 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,



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

cc: Steve Neske, Revenue