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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

January 29, 2015

The Honorable Connie O'Brien, Chairperson
House Committee on Children and Seniors
Statehouse, Room 187-N
Topeka, Kansas 66612

Dear Representative O'Brien:

SUBJECT: Fiscal Note for HB 2100 by House Committee on Children and Seniors

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2100 is respectfully submitted to your committee.

HB 2100 would create the Kansas ABLE savings program which would authorize the State Treasurer to create savings and investment accounts for individuals who become disabled before the age of 26. Recent passage of the Achieving a Better Life Experience (ABLE) Act led to federal tax code amendments that would allow earnings in these accounts to grow tax deferred and to be withdrawn tax free if used for qualified disability expenses. The accounts must be owned by the person with a disability, and contributions to the accounts would be limited to $14,000 per year. Assets in the accounts would not be counted for Medicaid eligibility, and assets under $100,000 would be excluded for social security disability determination.

According to the State Treasurer, passage of HB 2100 would not have a noticeable fiscal effect until FY 2017. The agency anticipates using existing resources to initiate the program in FY 2016 by publishing a request for proposals, evaluating proposals to contract with a program manager, and drafting regulations for the program. The agency would use existing staff in FY 2016 and FY 2017 and would not hire staff dedicated solely to the program until the position could be paid for with fee revenue from account owners. For FY 2017, the agency would use $50,000 from the State General Fund to create marketing materials and attract new owners. The marketing budget for future years would be paid for by fees charged to account owners.

The agency indicates that the tax free growth of earnings in these accounts would cause a slight drop in future SGF revenue. The agency estimates that 3.0 percent of the individuals who may be eligible for this program, or 4,417, would open an account and invest $3,500 for a total investment in the program of approximately $15.5 million. Using a conservative 4.0 percent rate of return, in FY 2017, the first year of the program, estimated earnings would be $618,496 which, when taxed at the 3.0 percent rate, would result in $18,555 in lost tax revenue. The agency states that the effect on Medicaid caseloads would be minimal. While the bill would make it easier to shelter assets from Medicaid eligibility tests, it is currently possible for individuals with assets to create a benefit trust to accomplish the same objective.

The Department of Revenue states that passage of HB 2100 would have a minimal effect on State General Fund revenues and uses an estimate of $10.0 million that might be contributed in FY 2017, with annual earnings of 10.0 percent. Using an average tax rate of 4.0 percent, the Department estimates a reduction in income tax receipts of $40,000. Passage of the bill would have no effect on administrative costs for the Department.

The Department for Families and Children also states that passage of HB 2100 would have a minimal effect on Medicaid caseloads. The agency assumes that the Social Security Administration would make the determination of a participant's disability, so there would be no costs to the agency for certification. Any fiscal effect associated with HB 2100 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Jack Smith, KDOR
Derek Kreifels, Treasurer's Office