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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

March 4, 2015

The Honorable Marvin Kleeb, Chairperson
House Committee on Taxation
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Kleeb:

SUBJECT: Fiscal Note for HB 2307 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2307 is respectfully submitted to your committee.

HB 2307 would provide for a tax amnesty program that would allow penalties and interest to be waived if the underlining delinquent tax liabilities are paid in full from September 1, 2015, to October 15, 2015. The tax amnesty program would cover privilege tax, estate tax, income taxes, withholding and estimated taxes, cigarette and tobacco products taxes, state and local retail sales and compensating use taxes, liquor enforcement taxes, liquor drink taxes, and mineral severance taxes. The program would apply to tax liabilities due and unpaid before January 1, 2014. The bill would not allow a taxpayer to participate in the tax amnesty program if they have received notice of an audit or an audit is in progress, or have delinquent tax liabilities that are pending in any court for criminal investigation or civil litigation. If a taxpayer participates in the amnesty program, the taxpayer relinquishes all administrative and judicial rights of appeal for that tax liability.

The bill would create the Budget Stabilization Fund and the Tax Reduction Fund. The bill would transfer $22.9 million from the State General Fund to the Budget Stabilization Fund in FY 2016 and $58.0 million in FY 2017. The transfer to the Budget Stabilization Fund in FY 2018 and each future fiscal year would be dependent on the amount of growth of selected State General Fund tax receipts. The Director of the Budget and the Director of Legislative Research would be required to certify if the amount of selected State General Fund tax receipts in the previous fiscal year increased by more than 102.0 percent, but less than 103.0 percent. The certified amount would be transferred to the Budget Stabilization Fund on August 15. When the Budget Stabilization Fund is equal to 5.0 percent of the total amount expenditures and demand transfers authorized from the State General Fund in any fiscal year, then any additional money would be transferred to the Tax Reduction Fund.

The bill would transfer $28.7 million from the State General Fund to the Tax Reduction Fund in FY 2017. The transfer to the Tax Reduction Fund in FY 2018 and each future fiscal year would be dependent on the amount of growth of selected State General Fund tax receipts. The Director of the Budget and the Director of Legislative Research would be required to certify if the amount of selected State General Fund tax receipts in the previous fiscal year that increased by more than 103.0 percent. The certified amount would be transferred to the Tax Reduction Fund on August 15. The Secretary of Revenue would be required to submit a report to the Governor, Speaker of the House, and President of the Senate the amount of money in the Tax Reduction Fund that is available to reduce taxes. The bill allows the Governor to recommend using the Tax Reduction Fund to reduce income tax rates. Any adjustments to income tax rates would be required to be approved by the Legislature.

The bill would eliminate the 7.5 percent ending balance requirement in the State General Fund and would allow the ending balance requirements to be governed by the Budget Stabilization Fund. Beginning in FY 2016, the Budget Stabilization Fund could be used if it appears that the State General Fund or other special revenue funds are insufficient to cover appropriations from the State General Fund or other special revenue funds. Expenditures from the Budget Stabilization Fund must be approved by the Legislature or the State Finance Council and the fund is subject to the Governor's allotment authority. The Budget Stabilization Fund and the Tax Reduction Fund would be part of the State General Fund, but the balances would not be counted in the total of State General Fund resources in order to issue an allotment or a rescission. The bill would allow the Governor to review and hear appeals for an allotment instead of the Finance Council.

For tax year 2016 and each future tax year, the bill sets the individual income tax rates at 2.66 percent rate for income under $15,000 ($30,000 for married filing jointly) and a 4.6 percent rate for income $15,000 and over ($30,000 for married filing jointly). For calculating state income taxes in tax year 2015 and each future tax year, the bill would allow a taxpayer to claim 50.0 percent of the total amount of allowed itemized deductions.

Estimated State Fiscal Effect				
	FY 2015 SGF	FY 2015 All Funds	FY 2016 SGF	FY 2016 All Funds
Revenue	--	--	$103,200,000	$103,200,000
Expenditure	--	--	$417,000	$417,000
FTE Pos.	--	--	--	--

The Department of Revenue estimates that HB 2307 would increase State General Fund revenues by $103.2 million in FY 2016 and $108.5 million in FY 2017. The increase in revenues and how the November 10, 2014 consensus revenue estimate for FY 2016 would be affected are shown in the following table:

Effect on FY 2016 Consensus Revenue Estimates
(Dollars in Thousands)

Receipt Description	Consensus Revenue Estimates (Nov.10, 2014)	Change in Revenue FY 2016	Proposed Adjusted CRE FY 2016
Motor Carrier	$ 12,000	$ --	$ 12,000
Income Taxes:			
Individual	2,300,000	103,200	2,403,200
Corporate	470,000	--	470,000
Financial Institutions	39,000	--	39,000
Excise Taxes:			
Retail Sales	2,270,000	--	2,270,000
Compensating Use	380,000	--	380,000
Cigarette	88,000	--	88,000
Severance	115,900	--	115,900
All Other Excise Taxes	114,100	--	114,100
Other Taxes	181,600	--	181,600
Total Taxes	$5,970,600	$ 103,200	$6,073,800
Other Revenues:			
Interest	$ 8,000	$ --	$ 8,000
Transfers	(222,500)	--	(222,500)
Agency Earnings	55,300	--	55,300
Total Other Revenues	($ 159,200)	$ --	($ 159,200)
Total Receipts	$5,811,400	$ 103,200	$5,914,600

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

	FY 2017	FY 2018	FY 2019	FY 2020
State General Fund	$108,500,000	$229,700,000	$514,500,000	$540,200,000

To formulate these estimates, the Department of Revenue reviewed data on tax delinquencies, tax amnesty programs, and current income tax collections. The Department has approximately $120.0 million in delinquent taxes that are currently due and unpaid. The Department estimates that during the amnesty period that it will collect approximately $30.0 million in tax liabilities in FY 2016 that are above its current trend on delinquent tax collections. The taxes from the tax amnesty programs are included in individual income taxes in the above table, but they will likely be collected from other tax sources. The remaining fiscal effect of the bill is attributed to the changes to the income tax rates and itemized deductions.

The Department indicates that the bill would require $417,000 from the State General Fund in FY 2016 to implement the bill and to modify the automated tax system. The Department would hire 45.00 temporary positions to process, collect, and report the amnesty revenues for 75 days, including the 45 days of the amnesty period. The required programming for this bill by itself 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 of Administration indicates that adjusting state income tax rates has the potential to have a fiscal effect on the amount of revenue collected from its debt setoff program. This program intercepts individual income tax refunds and homestead tax refunds and applies those amounts to debts owed to state agencies, municipalities, district courts, and state agencies in other states. Debts include, but are not limited to child support, taxes, educational expenses, fines, services provided to the debtor, and court ordered restitution. As the dollar amounts of refunds are decreased, the amount available for possible debt setoff is also reduced. However, the Department is unable to make a precise estimate of the amount of debt setoff that will no longer be intercepted as a result of the bill. Any fiscal effect associated with HB 2307 is reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Jack Smith, KDOR
Pam Fink, DofA