

March 17, 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 2401 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2401 is respectfully submitted to your committee.

HB 2401 would require a 4.33 percent excise tax on the gross value of electricity produced from renewable resources and the gross value of each gallon of ethanol that is produced. The bill defines renewable resources as wind, biomass, solar, hydro, or geothermal sources. The bill would exempt personal consumption of electricity produced from renewable resources, as long as the producer does not sell or transfer more than 500 kilowatt hours of excess production in any 24-hour period. The bill exempts generation facilities owned or operated by the federal government, State of Kansas, or any local governments. The excise tax would go into effect on January 1, 2016, and the excise tax must be paid annually by February 1st of each year. All proceeds from the excise tax would be deposited into the State General Fund. The bill allows the Director of Taxation at the Department of Revenue to maintain a Renewable Resources Tax Refund Fund with a balance of \$100,000 to refund any additional payments of the excise tax. The bill would allow the Director of Taxation to charge interest and penalties for failing to remit the excise tax. The bill requires producers to keep a complete and accurate record showing the gross value of electricity produced and the gross quantity of ethanol produced. The Secretary of Revenue would have the authority to adopt rules and regulations to implement the bill.

The Department of Revenue estimates that HB 2401 would increase State General Fund revenues by approximately \$27.0 million in FY 2017 and each future fiscal year. To formulate these estimates, the Department of Revenue reviewed data from the Kansas Corporation Commission (KCC) and the U.S. Energy Information Administration (EIA). The amount of renewable energy production is estimated to generate \$12.0 million to \$20.0 million in excise tax revenue annually. The amount of tax from ethanol is estimated to generate \$15.0 million to \$25.0 million in excise tax revenue annually. The amount of excise taxes from these sources would vary widely as the value of these commodities would change in the marketplace. To

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compute the estimate, EIA data was used for production quantities and the average price per megawatt hour for wind at \$35.00 and the average price per gallon of ethanol at \$2.58. The amount of electricity and ethanol produced each year was estimated by taking into consideration maximum potential output and historical data.

The Department of Revenue indicates that the bill would require \$122,400 from the State General Fund in FY 2016 to implement the bill, including developing a new excise tax reporting system, developing forms and instructions, and salaries and wages to hire 1.00 FTE position to administer the tax. 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. Any fiscal effect associated with HB 2401 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Amy Gilbert, KCC
Jack Smith, KDOR
Melissa Wangemann, KAC
Larry Baer, LKM