

February 10, 2017

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

Dear Representative Johnson:

SUBJECT: Fiscal Note for HB 2235 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2235 is respectfully submitted to your committee.

HB 2235 would require retailers that do not collect Kansas retail sales and compensating use taxes to provide records of untaxed Kansas sales to the Department of Revenue. In addition, each retailer that does not collect Kansas retail sales and compensating use taxes would be required to notify Kansas purchasers that the retail sales and compensating use tax is due on all purchases made from the retailer that are not exempt. The notice must be provided with each transaction between the retailer and the purchaser and the retailer must provide an annual notice to all Kansas purchasers on January 31st that summarizes all Kansas purchases from the preceding calendar year. Retailers with less than \$50,000 in total gross sales in Kansas are exempt from the reporting requirements. Retailers are not required to send annual notices to Kansas purchasers if the purchaser's total annual purchases are less than \$200. The bill includes penalties for retailers that fail to notify either the Department of Revenue or Kansas purchasers. The Department of Revenue would have the authority to write rules and regulations to implement the bill. The bill would take effect on July 1, 2017.

Estimated State Fiscal Effect				
	FY 2018 SGF	FY 2018 All Funds	FY 2019 SGF	FY 2019 All Funds
Revenue	--	--	\$83,846	\$100,000
Expenditure	\$270,000	\$270,000	\$270,000	\$270,000
FTE Pos.	--	4.00	--	4.00

The Department of Revenue estimates that HB 2235 would increase state revenues by \$100,000 in FY 2019 and \$2.0 million in FY 2020. Of those totals, the State General Fund is estimated to increase by \$83,846 in FY 2019 and by \$1,676,920 in FY 2020, while the State Highway Fund is estimated to increase by \$16,154 in FY 2019 and by \$323,080 in FY 2020. This bill also is estimated to increase local sales tax revenues; however, the specific estimate of higher local sales tax revenues was not calculated by the Department of Revenue.

To formulate these estimates, the Department of Revenue reviewed data from Colorado that passed similar legislation in 2010, but was not implemented due to litigation. Colorado anticipates implementing the legislation during calendar year 2017. The Department of Revenue anticipates implementing this legislation using a similar strategy as that of Colorado with a similar fiscal impact. Colorado is assuming minimal revenue in the first year of implementation, \$200,000 in the second year, and no more than \$6.0 million in the third year. Based on U.S. Census Bureau data, Kansas has about half the population and economic activity as Colorado, and so based on these assumptions, the Department estimates zero revenue from the bill in FY 2018, \$100,000 in FY 2019, and \$2.0 million in FY 2020.

The Department indicates that the bill would require \$270,000 from the State General Fund in both FY 2018 and FY 2019 to implement the bill. The bill would require 4.00 new FTE positions to manage this new program. The Department would need to determine the retailers that are not collecting Kansas retail sales and compensating use taxes. Once retailers provide information to the Department of the amount of retail sales and compensating use tax that were not collected from Kansas customers, the Department would match those customers on the list with individual income filers in the income tax system. The Department would verify that the amount of retail sales tax and compensating tax was paid on the taxpayer's individual income tax form. Once businesses and individual taxpayers are identified as not being compliant with Kansas use tax law, the Department would need to contact the taxpayers and manage the collections and appeals process.

The Department indicates that the bill would require modification to the automated tax system and to set up databases to compare data. 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, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Kansas Department of Transportation (KDOT) indicates that the bill would increase state revenues to the State Highway Fund as noted above. The additional revenues would fund additional expenditures for projects funded under the comprehensive transportation plan, known as T-WORKS.

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The Kansas Association of Counties and the League of Kansas Municipalities indicate that the bill would provide a net increase to local sales tax collections that are used in part to finance local governments. Any fiscal effect associated with HB 2235 is not reflected in *The FY 2018 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: Jack Smith, Department of Revenue
Ben Cleeves, Transportation
Brock Ingmire, League of Municipalities
Melissa Wangemann, Association of Counties