

March 2, 2022

The Honorable Adam Smith, Chairperson
 House Committee on Taxation
 Statehouse, Room 346-S
 Topeka, Kansas 66612

Dear Representative Smith:

SUBJECT: Fiscal Note for HB 2720 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2720 is respectfully submitted to your committee.

HB 2720 would set the state retail sales and compensation use tax rate on the sale of food at 0.0 percent beginning on August 1, 2022. The bill defines food as only those products and types of food that may be eligible for purchase with benefits from the Supplemental Nutrition Assistance Program issued by the U.S. Department of Agriculture. The bill would allow local governments and Washburn University to continue to charge a local sales tax from the sale of food. The bill would not adjust the distribution of state retail sales and compensating use tax revenue, which would remain the same as current law: 83.846 percent to the State General Fund and 16.154 percent to the State Highway Fund.

Estimated State Fiscal Effect				
	FY 2022 SGF	FY 2022 All Funds	FY 2023 SGF	FY 2023 All Funds
Revenue	--	--	(\$337,500,000)	(\$402,500,000)
Expenditure	--	--	\$812,795	\$812,795
FTE Pos.	--	--	--	8.00

The Department of Revenue estimates that HB 2720 would decrease state revenues by \$402.5 million in FY 2023. Of that total, the State General Fund is estimated to decrease by \$337.5 million in FY 2023, while the State Highway Fund is estimated to decrease by \$65.0 million in FY 2023. Local sales tax revenues, including those collected for Washburn University, from the sale of food are not estimated to be affected under the provisions of the bill. The fiscal effect to state revenues during subsequent years would be as follows:

	<u>FY 2024</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
State General Fund	(\$412,700,000)	(\$420,500,000)	(\$428,500,000)	(\$436,700,000)
State Highway Fund	<u>(79,500,000)</u>	<u>(81,000,000)</u>	<u>(82,600,000)</u>	<u>(84,100,000)</u>
	(\$492,200,000)	(\$501,500,000)	(\$511,100,000)	(\$520,800,000)

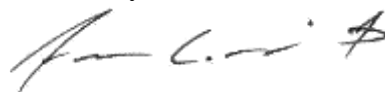
To formulate the estimates of setting the rate for the sale of food at 0.0 percent, the Department assumes that 15.0 percent of all current sales tax collections are collected on the sale of food. The Department estimates that reducing the food and food ingredients sales tax rate would result in a reduction in state sales tax collections of \$402.5 million in FY 2023, \$492.2 million in FY 2024, and \$501.5 million in FY 2025. Retailers would be required to collect retail sales or compensating use tax at two different rates depending on the products sold. The Department indicates these additional requirements could be burdensome to some retailers.

The Department of Revenue indicates that the bill has the potential to place Kansas out of compliance with the Streamlined Sales and Use Tax Agreement with new language on food that does not conform to the Agreement. In addition, the Agreement provides that the effective date of a rate change must be the first day of a calendar quarter, which the August 1, 2022, effective date does not comply with those requirements. The Department of Revenue estimates that more than \$60.4 million in revenues annually could be at risk and may no longer be received if Kansas loses its member status, as other members would no longer be contractually required to remit retail sales and compensating use taxes to Kansas.

The Department indicates that the bill would require \$812,795 from the State General Fund in FY 2023 to implement the bill and to modify the automated tax system. The bill would require the Department to hire 8.00 new FTE positions to provide customer relations and business support and meet additional accounting and audit needs. The bill would require \$525,864 from the State General Fund in FY 2024 and in future fiscal years for the ongoing costs for the new FTE positions. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, 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 indicates that the bill would provide a net reduction in state revenues to the State Highway Fund as noted above. The Kansas Department of Transportation indicates that when the state receives lower State Highway Fund dollars it may be required to make corresponding reductions to planned expenditures for projects funded under the comprehensive transportation plan. The League of Kansas Municipalities and the Kansas Association of Counties indicate the bill would have no fiscal effect on local governments. The bill would have no fiscal effect for Washburn University. Any fiscal effect associated with HB 2720 is not reflected in *The FY 2023 Governor's Budget Report*.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Jay Hall, Association of Counties
Lynn Robinson, Department of Revenue
Brendan Yorkey, Department of Transportation
Wendi Stark, League of Municipalities