

March 7, 2012

The Honorable Richard Carlson, Chairperson  
House Committee on Taxation  
Statehouse, Room 274-W  
Topeka, Kansas 66612

Dear Representative Carlson:

SUBJECT: Fiscal Note for HB 2511 by Representative Goodman, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2511 is respectfully submitted to your committee.

HB 2511 would provide a sales tax exemption for over-the-counter drugs, vitamins, and food and food ingredients. Food and food ingredients would not include alcoholic beverages, prepared food, or tobacco. The bill provides specific definitions for food and food ingredients, food sold through vending machines, and prepared food. All sales of over-the-counter drugs, vitamins, and food and food ingredients would be exempt from all retail sales taxes beginning on July 1, 2012.

Estimated State Fiscal Effect				
	FY 2012 SGF	FY 2012 All Funds	FY 2013 SGF	FY 2013 All Funds
Revenue	--	--	(\$313,500,000)	(\$353,200,000)
Expenditure	--	--	\$2,100	\$2,100
FTE Pos.	--	--	--	--

The Department of Revenue estimates that HB 2511 would decrease state revenues by \$353.2 million in FY 2013. Of that total, the State General Fund is estimated to decrease by \$313.5 million in FY 2013, while the State Highway Fund is estimated to decrease by \$39.7 million in FY 2013. This bill also is estimated to decrease local revenues by \$88.3 million in FY 2013. The decrease in revenues and how the November 4, 2011 consensus revenue estimate for FY 2013 would be affected are shown in the following table:

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**Effect on FY 2013 Consensus Revenue Estimates**  
*(Dollars in Thousands)*

Receipt Description	Consensus Revenue Estimates (Nov. 4, 2011)	Change in Revenue FY 2013	Proposed Adjusted CRE FY 2013
Motor Carrier	\$ 21,000	\$ --	\$ 21,000
Income Taxes:			
Individual	3,065,000	--	3,065,000
Corporate	240,000	--	240,000
Financial Institutions	24,000	--	24,000
Excise Taxes:			
Retail Sales	2,200,000	(313,500)	1,886,500
Compensating Use	335,000	--	335,000
Cigarette	92,000	--	92,000
Corporate Franchise	6,000	--	6,000
Severance	102,800	--	102,800
All Other Excise Taxes	96,000	--	96,000
Other Taxes	<u>141,000</u>	<u>--</u>	<u>141,000</u>
Total Taxes	\$6,322,800	(\$ 313,500)	\$6,009,300
Other Revenues:			
Interest	\$ 7,400	\$ --	\$ 7,400
Transfers	(90,300)	--	(90,300)
Agency Earnings	<u>51,500</u>	<u>--</u>	<u>51,500</u>
Total Other Revenues	(\$ 31,400)	\$ --	(\$ 31,400)
Total Receipts	\$6,291,400	(\$ 313,500)	\$5,977,900

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

	FY 2014	FY 2015	FY 2016	FY 2017
State General Fund	(\$297,600,000)	(\$306,100,000)	(\$317,600,000)	(\$329,500,000)
State Highway Fund	(67,200,000)	(69,100,000)	(71,700,000)	(74,400,000)
Local Governments	<u>(91,200,000)</u>	<u>(94,600,000)</u>	<u>(98,100,000)</u>	<u>(101,800,000)</u>
	(\$456,000,000)	(\$469,800,000)	(\$487,400,000)	(\$505,700,000)

To formulate these estimates, the Department of Revenue reviewed data from the Consumer Expenditure Survey published by the Bureau of Labor Statistics of the U.S. Department of Labor, state sales tax reports, and from historical data that shows the average household spends 15.0 percent of its taxable income on food and food ingredients. Based on this data, the reduction in state sales tax revenue from food and food ingredients is estimated to be a total of \$340.8 million. The Department estimates that over-the-counter drugs and vitamins each

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have nearly \$100.0 million in current sales that would now be exempted by this bill. The exemption for over-the-counter drugs is estimated to reduce state sales tax revenues by \$6,250,000 in FY 2013 and the exemption for vitamins would reduce state sales tax revenues by \$6,150,000 in FY 2013. Therefore, the net fiscal effect of the bill is estimated to reduce state sales tax revenues by \$353.2 million in FY 2013 (\$340.8 million + \$6,250,000 + \$6,150,000).

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. For FY 2013, Kansas is estimated to receive \$37.4 million in state and local use taxes from remote retailers from being a full member state of this agreement. Those revenues 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 compensating use taxes on remote sales to Kansas. The Department of Revenue indicates the bill would require \$2,100 from the State General Fund in FY 2013 for administrative costs to update forms and publications.

The Kansas Department of Transportation (KDOT) indicates the bill would reduce sales tax revenue dedicated to the State Highway Fund by \$39.7 million in FY 2013 and by \$67.2 million in FY 2014. It is estimated that sales tax revenue dedicated to the State Highway Fund would be reduced by a total of \$252.1 million between FY 2013 and FY 2017. Any fiscal effect associated with HB 2511 is not reflected in *The FY 2013 Governor's Budget Report*.

The League of Kansas Municipalities indicates that the bill would reduce the amount of local sales tax revenues that are currently collected from over-the-counter drugs, vitamins, and food and food ingredients beginning in FY 2013. However, the League does not have data on the amount of sales taxes that are collected on these items to make a precise estimate of the fiscal effect on local governments. The League indicates that if lower local sales tax revenues are generated as a result of HB 2511, then local governments would be required to offset this reduction by increasing local sales tax rates (if additional sales tax rate authority exists) or by increasing the local mill levy to generate additional revenues, or by decreasing expenditures.

Retailers that sell over-the-counter drugs, vitamins, and food and food ingredients would be required to reprogram cash registers to ensure that sales taxes are being collected on items that should be and not collected on items that would be exempted under HB 2511.

Sincerely,



Steven J. Anderson, CPA, MBA  
Director of the Budget

cc: Steve Neske, Revenue  
Jackie Aubert, SRS  
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