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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

March 24, 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 2128 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2128 is respectfully submitted to your committee.

HB 2128 would amend several statutes involving confidentiality of tax information, tax liens, and tax warrants. The bill would allow the Department of Revenue to disclose taxpayer information in any civil or criminal action or proceeding to enforce the tax or revenue laws of the state. The bill would allow tax liens and warrants to be applied to tangible personal property that is not required to be registered and a certificate of title has not been issued. Notices sent to a taxpayer would also be required to include the warrant. The bill would provide that when a warrant related to tax liens has been docketed with the clerk of the district court, the Secretary of Revenue would be required to file a notice of the lien with the Secretary of State. The Secretary of State would not be allowed to charge a fee for this filing. The notice of lien would then become a lien upon the title to and interest in the tangible personal property of the taxpayer against whom the notice of lien was filed. The Department of Revenue would be required to release the lien within 30 days of payment of taxes, penalties, and interest. The lien would cease to exist ten years from the filing of the notice of lien, unless the Secretary of Revenue filed a notice of renewal of the lien with the Secretary of State. The lien could be extended an unlimited numbers of times.

The bill would allow the Department of Revenue to change the filing frequency for sales taxes and liquor taxes in cases when the Department has cause to believe that the tax would be converted, diverted, lost, or otherwise not timely paid if the taxpaying business were to remain on its normal filing schedule. The bill would change the word “individual” to “person” for who is the responsible party for the collection and payment of retail sales and compensating use taxes.

The Department of Revenue indicates passage of HB 2128 would have no fiscal effect on state revenues. However, the Department indicates that if the responsible party is not changed to “person” for the collection and payment of retail sales and compensating use taxes, the

Department is in risk of not collecting about $2.0 million of tax delinquencies for each fiscal year. The Department indicates the term "person" would encompass all the various entities that might act as a responsible party for the collection and remittance of taxes and ensure that delinquent taxes are paid by the responsible party, including corporate entities.

The Department of Revenue indicates the bill would require $10,700 from the State General Fund in FY 2016 for administrative costs to implement the bill and modify computer systems. 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 Secretary of State indicates the bill would require certain notices of liens to be filed in the Uniform Commercial Code filing system. The Secretary of State indicates that its existing filing system would be used to allow the Department of Revenue to electronically file the new lien type. The costs to modify the filing system are estimated be negligible and could be absorbed within existing resources and staff levels. However, if unanticipated costs are required in order to facilitate electronic filings, outside contract programmer services may be required. The Secretary of State cannot estimate the number liens that would be filed per year under the provisions of the bill. The bill does not allow the Secretary of State to charge the Department of Revenue a filling fee on the original notice of the lien, but allows the Secretary of State to charge a fee at the time the lien is terminated. Those filling fees would be set a level that would be sufficient to cover administrative costs, including the costs associated with maintaining the filing system. Any fiscal effect associated with HB 2128 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Jack Smith, KDOR
Desiree Taliaferro, Secretary of State's Office