

February 2, 2017

The Honorable Les Mason, Chairperson  
House Committee on Commerce, Labor and Economic Development  
Statehouse, Room 521-E  
Topeka, Kansas 66612

Dear Representative Mason:

**SUBJECT:** Fiscal Note for HB 2037 by House Committee on Commerce, Labor and Economic Development

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2037 is respectfully submitted to your committee.

HB 2037 would authorize the Department of Transportation (KDOT) to establish an aviation grant program, which would be administered by the agency's Director of Aviation in consultation with the Secretary of Transportation and in cooperation with Kansas educational institutions. The Secretary and the Director would be allowed to solicit and receive funds from any public or private sources for the purpose of funding or matching grants.

Grants would be awarded at the discretion of the Director based on criteria approved by the Secretary. Grants may be awarded for two purposes:

1. Creating or developing aviation small businesses or aviation projects. Grants awarded for this purpose must receive matching contributions from local government or private donations; and,
2. Establishing or developing unmanned aircraft system (UAS) education courses or programs. This could include purchasing equipment or repaying bonds for the construction of facilities for UAS education.

The bill would establish the Aviation Fuel Sales Tax Fund. On July 1, 2017, and on July 1 of every subsequent year, the Department of Revenue would be required to report the amount of sales tax revenue received from all sales of aviation fuel prior to the end of the previous fiscal year and transfer that amount from the State General Fund to the Aviation Fuel Sales Tax Fund. If necessary, the Department of Revenue may estimate the amount. Of the total amount credited to the fund, half must be used for aviation small businesses or aviation project grants and half must be used for the development of UAS education courses.

Estimated State Fiscal Effect				
	FY 2018 SGF	FY 2018 All Funds	FY 2019 SGF	FY 2019 All Funds
Revenue	(\$1,100,000)	--	(\$1,100,000)	--
Expenditure	--	\$70,545	--	\$70,329
FTE Pos.	--	1.00	--	1.00

The Department of Revenue estimates that HB 2037 would result in annual transfers of approximately \$1.1 million from the State General Fund to the Aviation Fuel Sales Tax Fund. To formulate these estimates, the Department of Revenue reviewed data on the annual amount of sales tax attributable to aviation fuel sales. The estimate assumes that 95.0 percent of the diesel aviation fuel purchased is used for interstate commerce and, therefore, exempt from sales tax. It is also estimated that 75.0 percent of the aviation gasoline purchased is exempt from sales tax.

The Department is required, by current law to determine the amount of sales tax collections from aviation fuel. If the current methodology is sufficient, there would be no fiscal effect for the agency. However, if actual aviation fuel sales collections are needed to formulate estimates, the Department would require additional expenditures of \$108,400 for staff time related to updating forms and programming.

Of the total estimated amount transferred from the State General Fund to the Aviation Fuel Sales Tax Fund, approximately \$550,000 each year would be available for aviation small businesses or aviation project grants and for UAS education courses. However, KDOT believes that the grant programs would not fall within the permissible uses for state taxes on aviation fuels because the programs would not support airport capital or operating costs or relate to air transportation. According to the Department, HB 2037 could be considered a diversion of aviation revenue under federal law. Currently, \$5.0 million is transferred annually from the State Highway Fund to the Public Use General Aviation Airport Development Fund to be used for the Kansas Airport Improvement Program (KAIP). KDOT states provided that the amounts transferred and expended for the KAIP exceed aviation fuel revenues generated from non-grandfathered taxes and that KAIP funds are used for general aviation airport purposes, Kansas would likely continue to be in compliance with federal rules on revenue use.

KDOT would require additional expenditures of \$70,545 from the State Highway Fund and 1.00 FTE position in FY 2018 to administer the grant programs. Of the total amount, \$65,545 would be for salaries and wages and \$5,000 would be for associated operating expenditures. The ongoing cost for FY 2019 would be \$70,329 from the State Highway Fund. The expenditure limitation on the agency operations account would need to be increased by \$70,545 and \$70,329 in FY 2018 and FY 2019, respectively.

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According to the Board of Regents, educational institutions may receive additional grant funds through the aviation program; however, the precise amount that may be awarded is unknown. It is assumed that any grants received would cover any costs incurred by the educational institutions to provide courses or programs. Any fiscal effect associated with HB 2037 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: Ben Cleeves, Transportation  
Kelly Oliver, Board of Regents