

January 29, 2018

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

Dear Representative Johnson:

SUBJECT: Fiscal Note for HB 2491 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2491 is respectfully submitted to your committee.

HB 2491 would amend the Kansas Retailers' Sales Tax Act to clarify that the sales tax exemption in connection with original construction does not include installation of an appliance or electronic product. The bill would provide the definition of an appliance, electronic product, and the installation of an appliance or electronic product. The bill also would prohibit sales tax refund claims being filed based on a recent Court of Appeal's decision.

The Department of Revenue indicates passage of HB 2491 would have no fiscal effect on state revenues. However, the Department indicates that if this clarification to an existing sales tax exemption does not become law, the Department is in risk of not collecting approximately \$1.0 million in state sales tax collections each fiscal year. This would result in revenue reductions of \$840,000 to the State General Fund and \$160,000 to the State Highway Fund. This bill also would prevent a decrease in local sales tax revenues; however, a specific estimate of local sales tax revenues was not calculated by the Department of Revenue.

The Department of Revenue indicates that generally, when a house is remodeled, those services are exempt under the Retailers' Sales Tax Act. As the statute is written, the mere installation of an appliance, with nothing more done, was never considered by the Department of Revenue as "remodeling." In a recent case, the Court of Appeals determined that the installation of an appliance or electronic product (refrigerator, television, etc.) by a retailer (Lowe's Home Improvement) was considered remodeling, and therefore exempt from sales tax. The proposed legislation would clarify that the mere installation of an appliance or electronic product is not exempt from sales tax as remodeling under the Kansas Retailers' Sales Tax Act. According to the

The Honorable Steven Johnson, Chairperson
January 29, 2018
Page 2—HB 2491

Department of Revenue, reissuing sales tax publications would cost \$1,200 from the State General Fund in FY 2019.

The Kansas Department of Transportation (KDOT) indicates that the bill has the potential to prevent a reduction of state revenues to the State Highway Fund as noted above. KDOT 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, known as T-WORKS.

The Kansas Association of Counties and the League of Kansas Municipalities indicate that the bill has the potential to prevent a net reduction to local sales tax collections that are used in part to finance local governments. Any fiscal effect associated with HB 2491 is not reflected in *The FY 2019 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: Lynn Robinson, Department of Revenue
Ben Cleaves, Transportation
Chardae Caine, League of Municipalities
Melissa Wangemann, Association of Counties