

January 25, 2023

The Honorable Caryn Tyson, Chairperson
Senate Committee on Assessment and Taxation
300 SW 10th Avenue, Room 548-S
Topeka, Kansas 66612

Dear Senator Tyson:

SUBJECT: Fiscal Note for SB 40 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 40 is respectfully submitted to your committee.

SB 40 would allow taxpayers who carried back federal net operating losses in tax years 2018, 2019, and 2020 on the federal income tax return to also do so on the state income tax return. If the amount of net operating loss carryback exceeds the taxpayer's Kansas adjusted gross income for that taxable year, then the amount that exceeds the Kansas adjusted gross income could be carried forward for up to 20 years. The bill would require the taxpayer to file a claim for refund or amended return by April 15, 2025.

Estimated State Fiscal Effect				
	FY 2023 SGF	FY 2023 All Funds	FY 2024 SGF	FY 2024 All Funds
Revenue	--	--	(\$8,400,000)	(\$8,400,000)
Expenditure	--	--	\$93,226	\$93,226
FTE Pos.	--	--	--	--

The Department of Revenue indicates SB 40 would reduce State General Fund revenues by \$8.4 million in both FY 2024 and FY 2025. Data from the Internal Revenue Service indicate that Kansas taxpayers filed \$2.1 billion in negative business income losses for tax year 2018, tax year 2019, and tax year 2020. Using an average tax rate of 4.0 percent, the potential amount of tax liability that could be recaptured during a five-year carryback would be approximately \$84.0 million. Assuming 20.0 percent of this amount would be recaptured by carrying back losses to

profitable years, the fiscal effect of this bill would be \$16.8 million, which would be divided equally between FY 2024 and FY 2025.

The Department of Revenue indicates that it would require a total \$93,226 from the State General Fund in FY 2024 to implement the bill and to modify the automated tax system. 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. Any fiscal effect associated with SB 40 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue