



Larry L. Campbell, Director

Laura Kelly, Governor

March 9, 2020

REVISED

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

Dear Representative Johnson:

SUBJECT: Revised Fiscal Note for HB 2537 by House Committee on Taxation

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2537 is respectfully submitted to your committee.

HB 2537 would amend the definition of “retailer doing business in this state” in the Kansas Compensating Tax Act. The bill would require out-of-state retailers with at least \$100,000 in total gross sales in Kansas in the current or immediately preceding calendar year or from January 1, 2020, until the effective date of this bill to start collecting compensating use taxes on sales in Kansas. The bill would become effective upon its publication in the *Kansas Register*.

Estimated State Fiscal Effect				
	FY 2020 SGF	FY 2020 All Funds	FY 2021 SGF	FY 2021 All Funds
Revenue	--	--	(\$8,800,000)	(\$10,500,000)
Expenditure	--	--	\$140,212	\$140,212
FTE Pos.	--	--	--	2.00

The Department of Revenue estimates that HB 2537 would decrease state revenues by \$10.5 million in FY 2021. Of that total, the State General Fund is estimated to decrease by \$8.8 million in FY 2021, while the State Highway Fund is estimated to decrease by \$1.7 million in FY 2021. This bill also is estimated to decrease local sales tax revenues; however, the specific estimate of lower local sales tax revenues was not calculated by the Department of Revenue. The fiscal effect to state revenues during subsequent years would be as follows:

	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
State General Fund	(\$9,100,000)	(\$9,300,000)	(\$9,600,000)	(\$9,900,000)
State Highway Fund	<u>(1,700,000)</u>	<u>(1,800,000)</u>	<u>(1,800,000)</u>	<u>(1,900,000)</u>
	(\$10,800,000)	(\$11,100,000)	(\$11,400,000)	(\$11,800,000)

To formulate these estimates, the Department of Revenue reviewed data on compensating use tax collections from calendar year 2019. The Department indicated that 6,890 retailers reported taxable sales of less than \$100,000 in Kansas. These retailers collectively had total net sales of \$151.0 million that resulted in \$9.9 million in state compensating use tax liability in calendar year 2019. The Department indicates that under the provisions of the bill, these out-of-state retailers would no longer be required to collect compensating use taxes on sales in Kansas resulting in \$10.5 million in lower state compensating use tax collections in FY 2021. The estimates assume compensating use tax collections will grow approximately 3.0 percent each year.

The Department indicates that the bill would require \$140,212 from the State General Fund in FY 2021 to implement the bill and to modify the automated tax system. The bill would require the Department to hire 2.00 new FTE positions to answer questions from taxpayers and to review and audit retailer's compliance with the \$100,000 threshold. 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. Since the original fiscal note was issued, the Department of Revenue increased its estimate on administrative costs needed to implement the bill.

The Kansas Department of Transportation (KDOT) indicates that the bill would reduce 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 League of Kansas Municipalities and Kansas Association of Counties indicate that this bill has the potential to provide a net decrease to local sales tax collections in the future that are used in part to finance local governments. Any fiscal effect associated with HB 2537 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,



Larry L. Campbell
Director of the Budget

cc: Trey Cocking, League of Municipalities
Jay Hall, Association of Counties
Lynn Robinson, Department of Revenue
Ben Cleeves, Transportation