

March 26, 2019

REVISED

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

Dear Representative Johnson:

SUBJECT: Revised Fiscal Note for HB 2323 by Representative Garber, et al.

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2323 is respectfully submitted to your committee.

HB 2323 would establish a \$3 tax for each customer admitted to an adult-oriented business. The bill includes definitions for an adult-oriented business and nude. The adult-oriented business would pay the tax to the Department of Revenue. The tax would be deposited in the new Human Trafficking and Child Exploitation Prevention Grant Fund that is established by the bill at the Attorney General's Office. The bill indicates the purpose of the tax on adult-oriented businesses is to provide revenue that may be used by the state to provide human trafficking and child exploitation prevention grants. The bill includes fines of at least \$100 to a maximum of \$1,000 and possible prison time for failing to pay the tax or filing a fraudulent tax return. The Department of Revenue would have the authority to adopt rules and regulations to implement the bill.

The Department of Revenue indicates that it does not have data on how many customers are admitted to adult-oriented businesses in Kansas to make a precise estimate of the amount of revenue that would be generated from the enactment of HB 2323. The Department of Revenue indicates that it would require a total \$1,575,331 from the State General Fund in FY 2020 to implement the bill and to modify the automated tax system. The bill would require the Department to hire 1.00 new FTE position to review, process, and audit tax returns. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue and outside contract programmer services. 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 lowered its estimate on administrative costs needed to implement the bill.

The Attorney General's Office does not have data on the amount of tax revenue that would be generated from the enactment of this bill and therefore is unable to estimate the impact on its budget. The Office indicates the bill has the potential to increase litigation costs if lawsuits are filed that challenge the constitutionality of this tax. Litigation could span multiple fiscal years and could require the hiring of outside counsel. However, the Office did not provide an estimate of the amount of potential litigation costs.

The bill has the potential for increasing litigation in the courts because of the new violation created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources. Any fiscal effect associated with HB 2323 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell". The signature is fluid and cursive, with a large initial "L" and a long, sweeping underline.

Larry L. Campbell
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Willie Prescott, Office of the Attorney General
Janie Harris, Judiciary
Scott Schultz, Sentencing Commission