



February 21, 2020

The Honorable Caryn Tyson, Chairperson  
 Senate Committee on Assessment and Taxation  
 Statehouse, Room 123-E  
 Topeka, Kansas 66612

Dear Senator Tyson:

**SUBJECT:** Fiscal Note for SB 397 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 397 is respectfully submitted to your committee.

SB 397 would require sales taxes to be collected from all sales of digital property and subscription services beginning on July 1, 2020. The bill includes definitions for digital audio-visual works, digital audio works, digital books, digital code, and digital property. The bill also reorders the definitions section in the Kansas Retailers Sales Tax Act.

Estimated State Fiscal Effect				
	FY 2020 SGF	FY 2020 All Funds	FY 2021 SGF	FY 2021 All Funds
Revenue	--	--	\$38,200,000	\$45,600,000
Expenditure	--	--	\$200,327	\$200,327
FTE Pos.	--	--	--	3.00

The Department of Revenue estimates that SB 397 would increase state revenues by \$45.6 million in FY 2021. Of that total, the State General Fund is estimated to increase by \$38.2 million in FY 2021, while the State Highway Fund is estimated to increase by \$7.4 million in FY 2021. This bill also is estimated to increase local sales tax revenues; however, the specific estimate of higher 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	\$42,300,000	\$42,900,000	\$43,600,000	\$44,200,000
State Highway Fund	8,100,000	8,300,000	8,400,000	8,500,000
	<u>\$50,400,000</u>	<u>\$51,200,000</u>	<u>\$52,000,000</u>	<u>\$52,700,000</u>

To formulate these estimates, the Department of Revenue reviewed industry data on music, video games, and other online media subscription services, and reviewed data from other states that tax the sale of digital products. The Department indicates that 30 of the 45 states (including the District of Columbia) that have a retailer's sales tax, include the sale of digital products in their sales tax base.

The Department indicates that the bill would require \$200,327 from the State General Fund in FY 2021 to implement the bill and to modify the sales tax system. The bill would require the Department to hire 3.00 new FTE positions to review, process, and audit additional sales tax returns. 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.

The Kansas Department of Transportation indicates that the bill would increase state revenues to the State Highway Fund as noted above. The Kansas Association of Counties and the League of Kansas Municipalities indicate that the bill would provide a net increase to local sales tax collections that are used in part to finance local governments. Any fiscal effect associated with SB 397 is partially reflected in *The FY 2021 Governor's Budget Report*. After additional research from other states, the Department of Revenue substantially increased the estimated fiscal effect of this tax policy.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell", written in a cursive style.

Larry L. Campbell  
Director of the Budget

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