

March 6, 2020

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 2138 by House Committee on Taxation

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2138 is respectfully submitted to your committee.

HB 2138 would establish a \$5 entry fee for each customer admitted to a sexually oriented business. The bill includes definitions for nude and sexually oriented business. The fee would be collected by the Department of Revenue and deposited in the Family and Children Investment Fund. The bill indicates the purpose of the fee on sexually oriented businesses is to promote the health, safety, and general welfare of the citizens of Kansas and to mitigate the deleterious secondary effects of sexually oriented businesses within the state. 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 sexually oriented businesses in Kansas to make a precise estimate of the amount of revenue that would be generated from the enactment of HB 2138. The Department of Revenue indicates that it would require a total \$453,082 from the State General Fund in FY 2021 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. Since the last fiscal note was issued, the Department of Revenue lowered its estimate on administrative costs needed to implement the bill.

The state maintains two separate accounts within the Family and Children Investment Fund: one for the Department for Children and Families and one for the Judiciary. The bill is unclear where the collected fees would be deposited. However, the additional fees would likely support programs that affect families and children across the state.

The Attorney General's Office indicates the bill has the potential to increase litigation costs if lawsuits are filed that challenge the constitutionality of this fee. 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. Any fiscal effect associated with HB 2138 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is written in a cursive style with a large initial "L" and a smaller "L" followed by "Campbell".

Larry L. Campbell  
Director of the Budget

cc: Lynn Robinson, Department of Revenue  
Mary Rinehart, Judiciary  
Willie Prescott, Office of the Attorney General  
Kim Holter, Children & Families