

February 5, 2024

The Honorable Adam Smith, Chairperson
House Committee on Taxation
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Representative Smith:

SUBJECT: Fiscal Note for HB 2584 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2584 is respectfully submitted to your committee.

HB 2584 would require sales taxes to be collected from all sales of digital property and subscription services beginning on July 1, 2024. The retail sales and compensating use tax would be collected regardless of whether the purchaser has the right to permanently use this property, if the right to access or retain this property is not permanent, or if the right to use this property is conditional upon continued payment. The bill includes definitions for digital audio-visual works, digital audio works, digital books, digital code, and digital property. The bill also reorders and reconciles the definitions section in the Kansas Retailers Sales Tax Act.

Beginning in FY 2026, once the revenue attributed to sales tax generated from sales of digital property and subscription services exceeds \$36.7 million, the state sales and compensating use tax would be reduced by 0.1 percent. For each additional \$60.0 million of revenue attributed to sales tax generated from sales of digital property and subscription services since a prior rate reduction, the state sales and compensating use tax would be reduced by an additional 0.1 percent until the state sales and compensating use tax rate is lowered to 6.0 percent. The Director of Legislative Research would certify the revenue amounts to the Secretary of Revenue and the Director of the Budget by September 1st, and by October 1st, the Secretary of Revenue would publish the new sales and compensating use tax rates that would go into effect on January 1st.

Estimated State Fiscal Effect			
	FY 2024	FY 2025	FY 2026
Expenditures			
State General Fund	--	\$1,800	--
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Expenditures	--	\$1,800	--
Revenues			
State General Fund	--	\$27,800,000	\$30,400,000
Fee Fund(s)	--	5,900,000	6,700,000
Federal Fund	--	--	--
Total Revenues	--	\$33,700,000	\$37,100,000
FTE Positions	--	--	--

The Department of Revenue estimates that HB 2584 would increase state revenues by \$33.7 million in FY 2025. Of that total, the State General Fund is estimated to increase by \$27.8 million in FY 2025, while the State Highway Fund is estimated to increase by \$5.9 million in FY 2025. 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:

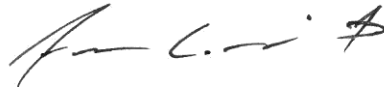
	<u>FY 2026</u>	<u>FY 2027</u>	<u>FY 2028</u>	<u>FY 2029</u>
State General Fund	\$30,400,000	\$4,500,000	(\$21,400,000)	(\$21,600,000)
State Highway Fund	<u>6,700,000</u>	<u>1,000,000</u>	<u>(4,700,000)</u>	<u>(4,700,000)</u>
	\$37,100,000	\$5,500,000	(\$26,100,000)	(\$26,300,000)

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. Under the provisions of the bill, it is estimated that the state sales and compensating use tax rate would be reduced by 0.1 percent on January 1, 2027. According to the Department of Revenue, reissuing sales tax publications and revising forms would cost \$1,800 from the State General Fund in FY 2025.

The Kansas Department of Transportation indicates that the bill would adjust state revenues to the State Highway Fund as noted above. The Kansas Association of Counties and the League of Kansas Municipalities indicate the bill would provide a net increase to local sales tax collections that are used in part to finance local governments. This bill has the potential to make adjustments to state and local sales tax revenues that are pledged to repay STAR bond projects;

however, it is unknown what impact the bill would have on the viability of those projects. Any fiscal effect associated with HB 2584 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

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

Adam C. Proffitt
Director of the Budget

cc: Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties
Lynn Robinson, Department of Revenue
Brendan Yorkey, Department of Transportation