

February 21, 2019

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

Dear Representative Johnson:

SUBJECT: Fiscal Note for HB 2352 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2352 is respectfully submitted to your committee.

HB 2352 would create the Kansas Main Street Parity Act by requiring certain marketplace facilitators and out-of-state retailers to start collecting Kansas retail sales and compensating use taxes on sales to Kansas customers. The bill defines marketplace facilitators as persons who facilitate sales by an internet retailer through a physical or electronic marketplace. The bill would require marketplace facilitators and out-of-state retailers with at least \$100,000 in total gross sales in Kansas in the current or immediately preceding calendar year to start collecting retail sales and compensating use taxes on sales in Kansas starting the first day of the next calendar month that is at least 30 days from the date that they reached the \$100,000 threshold. The bill would require that marketplace facilitators and out-of-state retailers begin collecting sales tax on July 1, 2019. The bill includes a possible conflict that has the potential to delay the requirement for marketplace facilitators to collect sales tax until July 1, 2020. The fiscal note assumes that marketplace facilitators would start collecting sales taxes on July 1, 2019. The bill includes definitions for items that are used in the Kansas Main Street Parity Act.

The bill would require sales taxes to be collected from all sales of digital property and subscription services beginning on July 1, 2019. The bill includes definitions for digital audio-visual works, digital audio works, digital books, digital code, and digital property. The Department of Revenue would have the authority to write rules and regulations to implement the bill.

Estimated State Fiscal Effect				
	FY 2019 SGF	FY 2019 All Funds	FY 2020 SGF	FY 2020 All Funds
Revenue	--	--	\$34,400,000	\$41,100,000
Expenditure	--	--	\$505,788	\$505,788
FTE Pos.	--	--	--	8.00

The Department of Revenue estimates that HB 2352 would increase state revenues by \$41.1 million in FY 2020. Of that total, the State General Fund is estimated to increase by \$34.4 million, while the State Highway Fund is estimated to increase by \$6.7 million in FY 2020. 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.

To formulate the estimates for increased sales tax authority from remote sellers, the Department of Revenue reviewed data from the U.S. Government Accountability Office (GAO) that released a study on sales taxes in November 2017. The report shows that Kansas has the potential to receive an additional \$113.0 million to \$170.0 million each year in increased state and local sales tax collections with expanded collection authority with out-of-state remote sellers. The formation of this fiscal note used the lower estimate from GAO. The numbers quoted from GAO include both state and local sales tax collections and the amounts that the state already receives from Streamlined Sales Tax Volunteer Filers. Making these adjustments, the Department of Revenue estimates that Kansas could potentially receive \$70.9 million with expanded sales tax collection authority, including \$59.4 million to the State General Fund and \$11.5 million to the State Highway Fund. However, it could be a number of years before the state would increase collections to those levels. The Department indicates that the state would likely collect \$32.6 million in FY 2020 specifically from marketplace facilitators, including \$27.3 million from the State General Fund and \$5.3 million from the State Highway Fund. The amount collected would likely increase in future fiscal years; however, the Department does not have enough information to provide a precise estimate of the additional revenue that would be collected in FY 2020 or any future fiscal years.

The Department of Revenue reviewed data from the New York City Independent Budget Office that released a Fiscal Brief in September 2015 that addressed placing a sales tax on digital goods. Their estimate, based on national numbers, indicated that the State of New York would receive \$38.0 million annually in sales tax revenue by taxing the digital equivalents of physical media goods. After adjusting for population and rate differences, it is estimated that Kansas could receive an additional \$8.5 million in state sales tax by imposing a tax on digital property, including \$7.1 million to the State General Fund and \$1.4 million to the State Highway Fund.

The Department of Revenue indicates that it would require a total \$505,788 from the State General Fund in FY 2020 to implement the bill and to modify the sales tax system. The bill would require the Department to hire 8.00 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 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.

The Kansas Department of Transportation indicates that the bill would increase state revenues to the State Highway Fund as noted above. The additional revenues would fund additional expenditures for projects funded under the comprehensive transportation plan, known as T-WORKS.

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 HB 2352 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 smaller "L" before the last name.

Larry L. Campbell
Director of the Budget

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