



February 10, 2021

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Kansas Action for Children
Written neutral testimony on HB 2173
House Taxation Committee

Chair Smith and Members of the Committee:

Thank you for the opportunity to provide neutral testimony for House Bill 2173. Kansas Action for Children (KAC) is a nonprofit, nonpartisan organization. Our vision is to make Kansas the best state to raise -- and be -- a child, and we shape health, education, and economic policies that improve the lives of Kansas children and families. We support budget and tax policy that prioritizes investments in children and families, particularly those with low incomes.

KAC believes Kansas lawmakers should enact legislation to collect sales tax from marketplace facilitators to modernize Kansas' tax code, level the playing field for small businesses, and capture a sustainable and renewable source of revenue that our state needs. This bill has the potential to increase tax fairness between Kansas businesses and their out-of-state counterparts that use a third-party marketplace facilitator. However, we are concerned the proposed de minimus threshold, in practice, would give an unfair advantage to out-of-state businesses.

Since 2018, when the United States Supreme Court issued its decision in the case of *South Dakota v. Wayfair, Inc.*, almost all states with sales taxes have implemented collection and remittance obligations for marketplace facilitators. Currently, Kansas is one of three states that has not yet enacted a marketplace facilitator provision. This bill would make Kansas businesses economically competitive with other states' businesses by collecting this revenue. Without a sales tax for marketplace facilitators, the state would put in-state businesses, which are required to pay Kansas sales tax, at an economic disadvantage from their out-of-state competitors that use marketplace facilitators and avoid having to collect and remit sales tax.

A marketplace facilitator bill would increase compensating use tax revenue. These additional monies could be used for a variety of the state's needs. The options include: 1) addressing an anticipated budget shortfall, 2) growing the state's rainy day fund, and 3) investing in programs to help Kansans recover from the economic downturn caused by COVID-19.

KAC supports policy that would remove the unfair advantage out-of-state marketplace facilitators have in Kansas, while also establishing a sustainable source of revenue during a time of economic hardship. However, to truly level the playing field, please consider removing the proposed \$100,000 de minimus threshold, which would advantage out-of-state businesses over Kansas businesses. Thank you for the opportunity to share our thoughts. If you have any questions, please contact me at emily@kac.org.