Kansas
Division of the Budget

March 9, 2020

REVISED

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

Dear Representative Johnson:

  SUBJECT: Revised Fiscal Note for HB 2513 by House Committee on Taxation

  In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2513 is respectfully submitted to your committee.

  HB 2513 would require marketplace facilitators to start collecting Kansas retail sales and compensating use taxes on sales to Kansas customers. The bill defines a marketplace facilitator as a person or their affiliate that contracts with marketplace sellers to facilitate sales through a physical or electronic marketplace. Marketplace facilitators would also include platforms that offer short term rentals for lodging or sleeping accommodations that are not regulated under the Lodging Inspection Act. A marketplace facilitator would not include advertising services, payment processing services, or commodity futures. The bill would require marketplace facilitators with at least $100,000 in total gross sales in Kansas in the preceding calendar year to start collecting retail sales and compensating use taxes on sales in Kansas on July 1, 2020. Marketplace facilitators would not be responsible to remit any taxes from sales occurring prior to July 1, 2020. The bill would allow the Department of Revenue to grant a waiver to a marketplace facilitator under certain conditions and if all of its marketplace sellers are already collecting and remitting retail sales and compensating use taxes. The Department of Revenue would be allowed to audit sales of marketplace facilitators. The bill would relieve the liability of a marketplace facilitator to collect and remit the correct amount of the tax if an error was due to incorrect or insufficient information from the marketplace seller. The bill also removes the click through nexus provisions that allowed certain out-of-state retailers to collect sales taxes if certain conditions are met.

Estimated State Fiscal Effect				
	FY 2020 SGF	FY 2020 All Funds	FY 2021 SGF	FY 2021 All Funds
Revenue	--	--	$25,400,000	$30,400,000
Expenditure	--	--	$223,712	$223,712
FTE Pos.	--	--	--	2.00

The Department of Revenue estimates that HB 2513 would increase state revenues by $30.4 million in FY 2021. Of that total, the State General Fund is estimated to increase by $25.4 million in FY 2021, while the State Highway Fund is estimated to increase by $5.0 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:

	FY 2022	FY 2023	FY 2024	FY 2025
State General Fund	$28,100,000	$28,500,000	$29,000,000	$29,400,000
State Highway Fund	5,500,000	5,500,000	5,600,000	5,700,000
	$33,600,000	$34,000,000	$34,600,000	$35,100,000

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 $30.4 million in FY 2021 specifically from marketplace facilitators, including $25.4 million from the State General Fund and $5.0 million from the State Highway Fund.

The Department indicates that the bill would require $223,712 from the State General Fund in FY 2021 to implement the bill and to modify the automated tax system. The bill would require the Department to hire 2.00 new FTE positions to answer questions from taxpayers and to review, process, and audit additional compensating use 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. Since the original fiscal note was issued, the Department of Revenue increased its estimate on administrative costs needed to implement the bill.

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. The fiscal effect associated with HB 2513 is reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,

Larry L. Campbell
Director of the Budget

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