

March 9, 2020

The Honorable Caryn Tyson, Chairperson  
Senate Committee on Assessment and Taxation  
Statehouse, Room 123-E  
Topeka, Kansas 66612

Dear Senator Tyson:

**SUBJECT:** Fiscal Note for SB 399 by

In accordance with KSA 75-3715a, the following fiscal note concerning SB 399 is respectfully submitted to your committee.

SB 399 would require marketplace facilitators to start collecting Kansas retail sales and compensating use taxes on sales to Kansas customers on July 1, 2020. The bill defines a “marketplace facilitator” as a person that has an agreement with marketplace sellers to facilitate sales through a physical or electronic marketplace. A marketplace facilitator would not include advertising services. The bill would also set up a procedure that would require future marketplace facilitators to start collecting and remitting retail sales and compensating use taxes on sales to Kansas. 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. Marketplace facilitators would not be responsible to remit any taxes from sales occurring prior to July 1, 2020; however, if a marketplace facilitator already collected these taxes voluntarily prior to that date, then they would not be eligible for a refund. The Department of Revenue would have the authority to adopt rules and regulations to implement the bill.

| Estimated State Fiscal Effect |                |                      |                |                      |
|-------------------------------|----------------|----------------------|----------------|----------------------|
|                               | FY 2020<br>SGF | FY 2020<br>All Funds | FY 2021<br>SGF | FY 2021<br>All Funds |
| Revenue                       | --             | --                   | \$25,400,000   | \$30,400,000         |
| Expenditure                   | --             | --                   | \$170,212      | \$170,212            |
| FTE Pos.                      | --             | --                   | --             | 2.00                 |

The Department of Revenue estimates that SB 399 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. 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 2022</u>   | <u>FY 2023</u>   | <u>FY 2024</u>   | <u>FY 2025</u>   |
|--------------------|------------------|------------------|------------------|------------------|
| State General Fund | \$28,100,000     | \$28,500,000     | \$29,000,000     | \$29,400,000     |
| State Highway Fund | <u>5,500,000</u> | <u>5,500,000</u> | <u>5,600,000</u> | <u>5,700,000</u> |
|                    | \$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 \$170,212 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 marketplace facilitator compliance. 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.

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. 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 SB 399 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,



Larry L. Campbell  
Director of the Budget

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