

SESSION OF 2021

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 50**

As Amended by Senate Committee on  
Assessment and Taxation

**Brief\***

SB 50, as amended, would mandate the collection and remittance of sales and compensating use tax by most marketplace facilitators beginning July 1, 2021. Such entities with annual gross receipts from sales sourced into Kansas in excess of \$100,000 would be subject to the mandate, which also would apply to out-of-state retailers with annual receipts from sales sourced into Kansas in excess of \$100,000.

The bill would define “marketplace facilitators” to include entities that contract with sellers to facilitate the sale of products or lodgings through a physical or electronic marketplace operated, owned, or otherwise controlled by the entity and either directly or indirectly collects the payment from the purchaser and transmits all or part of the payment to the seller. The definition would exclude platforms that exclusively provide advertising services, principally provides payment processing, or is a certain commodity futures trading organization.

The bill further would clarify that, in addition to state and local sales and use tax, marketplace facilitators also would be responsible for collecting and remitting local transient guest taxes beginning January 1, 2022, and certain prepaid wireless 911 fees beginning April 1, 2022.

The Department of Revenue (KDOR) would be authorized to require marketplace facilitators to provide any

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

information necessary to assure implementation of the bill's provisions, including the documentation of sales.

The Secretary of Revenue would be required to adopt any rules and regulations for purposes outlined in the bill.

The bill would repeal the "click-through" nexus provisions for affiliated persons related to sales and use tax collections.

The bill would also make technical changes.

## **Background**

The bill was introduced by the Senate Committee on Assessment and Taxation at the request of a representative of the Kansas Chamber of Commerce.

### ***Senate Committee on Assessment and Taxation***

In the Senate Committee hearing, representatives of the Kansas Chamber of Commerce, Kansas Restaurant and Hospitality Association, League of Kansas Municipalities, Travel Industry Association of Kansas, and Verizon testified as **proponents**, stating the bill would provide tax equity between in-state and out-of-state retailers. Written-only **proponent** testimony was provided by representatives of Amazon, AT&T, Verizon, and T-Mobile; Cities of Mission, Prairie Village, and Westwood Hills; City of Overland Park; Council on State Taxation; and Overland Park Chamber of Commerce.

Neutral testimony was provided by representatives of KDOR and Kansas Action for Children.

No other testimony was provided.

The Senate Committee amended the bill to make a technical correction related to the definition of “hotel” and to make the required date for prepaid wireless 911 fee collection April 1, 2022.

**Fiscal Information**

According to the fiscal note prepared by the Division of the Budget on the bill as introduced, KDOR estimates the bill would result in the following increases in state revenue.

	(Dollars in Millions)				
	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026
State General Fund	\$ 35.5	41.7	44.1	46.6	49.3
State Highway Fund	6.9	8.1	8.6	9.1	9.6
<b>Total</b>	<b>\$ 42.4</b>	<b>49.8</b>	<b>52.7</b>	<b>55.7</b>	<b>58.9</b>

Taxation; sales tax; marketplace facilitators; 911 fee; Transient Guest Tax