

SESSION OF 2018

**SUPPLEMENTAL NOTE ON SUBSTITUTE FOR
SENATE BILL NO. 111**

As Recommended by Senate Committee on
Assessment and Taxation

Brief*

Sub. for SB 111 would require any seller that does not have a physical presence in Kansas but has an annual gross revenue from the sale of tangible personal property exceeding \$100,000, or more than 200 separate transactions, in the state to collect and remit sales taxes.

Nothing in the bill would affect the obligation of a purchaser to remit the applicable use tax when the seller does not collect and remit sales tax.

Background

The bill, as introduced, would have required any retailer not collecting Kansas sales and use taxes to notify Kansas purchasers that sales and use taxes were due on all purchases made from the retailer that are not otherwise exempt from sales tax. In the Senate Committee hearing on that bill during the 2017 session, proponent testimony was provided by representatives of the Kansas Association of Counties, the League of Kansas Municipalities, and the cities of Lawrence, Manhattan, and Overland Park. Neutral testimony was provided by the Department of Revenue. Opponent testimony was provided by Americans for Prosperity–Kansas.

*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>

The Senate Assessment and Taxation Committee on April 2, 2018, voted to remove the bill's previous provisions, recommend a substitute bill be created, and insert the language seeking to require certain remote sellers to collect Kansas state and local sales taxes. A representative of the Department of Revenue explained the substitute bill's language is similar to legislation adopted by South Dakota in 2016 that is now the subject of litigation in the U.S. Supreme Court (*South Dakota v. Wayfair Inc.*).

A fiscal note on the substitute bill was not available when the Senate Committee recommended the bill.