

SESSION OF 2020

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 266**

As Recommended by House Committee on
Taxation

Brief*

House Sub. for SB 266 would mandate the collection and remittance of sales and compensating use tax by most marketplace facilitators beginning July 1, 2020. 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 generally define “marketplace facilitators” to include entities that have entered into agreements with remote sellers to process payments; provide delivery, fulfillment or storage services; list products for sale; set prices; take orders; conduct certain advertising or promotion; or provide customer service.

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 certain prepaid wireless 911 fees and local transient guest taxes.

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

*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>

Background

SB 266, as introduced, dealt with the qualifications of county and district appraisers and members of the State Board of Tax Appeals and was introduced by the Senate Committee on Assessment and Taxation at the request of Senator Alley.

In the Senate Committee hearing, representatives of the Kansas Policy Institute and the Kansas Chamber of Commerce testified as proponents. Written-only testimony in support of the bill was provided by the Kansas Association of Realtors and the Kansas Cooperative Council. Representatives of the Kansas Association of Counties and the Kansas County Appraisers Association testified as opponents. A representative of the Property Valuation Division, KDOR, provided neutral testimony on the bill.

The Senate Committee on Assessment and Taxation amended the bill to change to July 1, 2021, the date upon which appraisal courses necessary to qualify for the designation of registered mass appraiser and all continuing education courses required to retain such designation be approved by the Kansas Real Estate Appraisal Board.

The House Committee on Taxation on May 14, 2020, voted to remove the bill's original provisions, insert the language relating to collection of sales and use tax by marketplace facilitators, and recommend a substitute bill be created.

In the House Committee hearing, a representative of the KDOR stated the substitute bill would be expected to increase overall compensating use tax receipts for FY 2021 by \$19.4 million. Of this amount, \$16.2 million would be an increase in State General Fund receipts, and \$3.2 million would be an increase in State Highway Fund receipts. Local compensating use taxes also would be expected to increase, although an estimate of that amount was not immediately

available. The fiscal note prepared for the bill as introduced does not apply to the substitute bill.

Any fiscal effect associated with enactment of the bill is not reflected in *The FY 2021 Governor's Budget Report*.