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**Capitol View**

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**Here’s a Revenue Enhancement Plan That Needs Implementation**

Six months after a landmark United States Supreme Court ruling that favored states in their battle to collect sales tax from online sales, Nebraska is, once again, late to the game.

Justice Anthony Kennedy wrote that “the Internet’s prevalence and power have changed the dynamics of the national economy,” in ruling that major online retailer Wayfair must collect sales tax and remit it to the plaintiff state of South Dakota. That opens the door for all states to collect from online retailers even if companies don’t have a physical presence in the state. Forty other states supported South Dakota in the suit.

At issue nationwide is billions of dollars worth of sales tax. Nebraska is missing out on an estimated $30 million to $40 million annually. Wayfair argued that implementing a mandatory tax could hurt — and potentially kill — businesses. In a 5-4 vote, the Supreme Court agreed that e-commerce has completely changed the way Americans spend money.

Following the June decision, some states jumped on the ruling and got enabling legislation on the books. A handful of Nebraska lawmakers, encouraged by Omaha Sen. John McCollister, contemplated a special session to get things rolling and ensure the state would get the millions it is due. The estimated $100,000 cost for such a session seemed reasonable in the light of a revenue advantage in the millions, especially given that the Nebraska cash reserve fund has been depleted almost 50 percent in the past four years.

But Governor Pete Ricketts threw a wet blanket on the process by urging the state to wait and further dampened enthusiasm by saying that any new money should go for his pet project, property tax relief. Of course, McCollister

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is on Ricketts’ list because the senator didn’t vote the way the governor thought all good Republicans should vote on certain issues.

Yes friends, because of stubbornness and petty politics, Nebraska is just now getting around to having something in place to force that internet sales tax collection. Several states implemented similar laws during the summer and others were ready January 1. Nebraska Tax Commissioner Tony Fulton said current state statutes require certain sellers who are engaged in business in our state to collect sales tax.

He said the Department of Revenue is ready to assist remote sellers in registering their businesses to collect and remit tax on sales to customers in Nebraska. “The Wayfair decision presents a new climate for remote sellers, and we want to be mindful of that fact. Further, we do not take for granted the great service to Nebraska performed by businesses who collect sales tax on behalf of the state,” Fulton said.

The Legislature’s Revenue Committee is currently considering three bills to implement the high court decision. Sarah Curry, policy director at the Platte Institute, supports all three. Although the state Department of Revenue requires remote sellers to begin collecting and remitting state sales tax as of this year, she said, it cannot legally enforce that regulation because it is not in state law. “While the Supreme Court’s decision does allow sales tax on e-commerce and remote sales,” Curry said, “Nebraska still has to update its statutes with provisions of the court in order to protect itself from future legal challenges.”

Fulton has said that internet businesses with sales in Nebraska of $100,000 or less or 200 or fewer annual transactions in the state will be exempt.

Jim Otto, president of the Nebraska Retail Federation, told the Revenue Committee he supports two of the bills on behalf of the federation and the Nebraska Grocery Industry Association. To protect Nebraska brick-and-mortar

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retailers that compete with online sellers, he said, state law needs to include the minimum sales thresholds and a requirement that online marketplaces collect and remit state sales taxes for third-party sellers.

Albion Senator Tom Briese’s bill (LB18) would direct the funds to property tax relief. McCollister’s measure (LB284) and a similar bill (LB291) from committee chair Sen. Lou Ann Linehan would also direct online marketplaces such as Amazon and Ebay to collect and remit state sales tax for the smaller sellers they serve if the marketplaces meet the minimum thresholds.

None of the bills had any opposition, so there is no valid excuse for the committee to delay getting them to the full Legislature for debate. Here’s hoping the Governor will butt out and let the Legislature do its job. Further, whatever lawmakers decide to do with the money -- replenish the cash reserve fund and/or devote some to property tax relief – support it, don’t veto it!

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***J.L. Schmidt has been*** *covering Nebraska government and politics since 1979. He has been a registered Independent for 20 years.*