

March 28, 2024

The Honorable Nick Hoheisel, Chairperson
House Committee on Financial Institutions and Pensions
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Hoheisel:

SUBJECT: Fiscal Note for HB 2710 by House Committee on Financial Institutions and Pensions

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2710 is respectfully submitted to your committee.

HB 2710 would require money transmitters by wire to collect an excise tax of \$7.50 per transaction of \$500 or less or an amount equal to 1.5 percent of any transaction greater than \$500. A receipt for the tax would be issued to the customer. “Money transmitter by wire” would mean any person receiving payment for the service of sending or receiving money from another location or person. The bill lists persons, governments, and transactions that would be excluded from the definition of “money transmitter by wire.” The money transmitter would send the excise taxes it collects to the Department of Revenue by electronic fund transfer. The money transmitter would file monthly reports and returns, including records of all transactions and receipts with the Department. The Department would be allowed to provide excise tax information concerning a money transmitter by wire to the Office of the State Bank Commissioner. The Secretary of Revenue and the State Bank Commissioner would have the power to write rules and regulations to implement the bill.

The Office of State Bank Commissioner would assess penalties for nonpayment of excise taxes and make a claim against the surety bond of the money transmitter for unpaid excise taxes, interest, and fines on behalf of the state. On July 15, 2025, and each July 15 thereafter, all excise taxes collected as well as penalties assessed would be deposited into the State General Fund. From the State General Fund, the funds would be transferred to three new funds created in the bill as follows: 30.0 percent to the Criminal Litigation Fund, 45.0 percent to the Wire Transfer Fee Fund,

and 25.0 percent to the Prosecutor and Law Enforcement Grant Fund. The Attorney General would administer the Criminal Litigation Fund that would be used for investigating and prosecuting criminal cases. The funds could not be used for activities of the Medicaid Fraud and Abuse Division. The Wire Transfer Fee Fund would be administered by the Kansas Bureau of Investigation and would be used for complex drug and white-collar criminal investigations. The Kansas Criminal Justice Coordinating Council would administer the Prosecutor and Law Enforcement Grant Fund and use the funds to award grants to county attorneys or district attorneys or local law enforcement agencies in accordance with the standards and statewide strategic plan adopted for the federal Edward Byrne Memorial Justice Assistance Grant Program.

The bill would create a new non-refundable income tax credit in an amount equal to the amount of any money transmitter by wire excise taxes paid during the tax year beginning in tax year 2024. The bill would allow any unused tax credits to be carried forward for up to five years.

In addition, it would be unlawful for a person who is not a United States citizen or an alien who is lawfully present in the United States to transmit a wire transfer. Unlawful transmission of a wire transfer would be a class C nonperson misdemeanor.

The Department of Revenue estimates that the excise tax created by HB 2710 would increase State General Fund revenues by \$12,302,098 in FY 2025, \$13,757,111 in FY 2026, and \$14,102,196 in FY 2027. The bill would also create an income tax credit for excise taxes paid which decrease state revenues by \$284,135 in FY 2025, \$582,525 in FY 2026, and \$597,137 in FY 2027. Net revenues would be distributed among the three funds created in the bill as follows:

<u>Fund</u>	<u>FY 2025</u>	<u>FY 2026</u>	<u>FY 2027</u>
Criminal Litigation Fund (30%)	\$3,605,389	\$3,952,376	\$4,051,518
Wire Transfer Fee Fund (45%)	\$5,408,083	\$5,928,564	\$6,077,277
Prosecutor & Law Enforcement Grant Fund (25%)	\$3,004,491	\$3,293,647	\$3,376,265

The Department based its estimates on data from Oklahoma, the only state that has implemented this type of excise tax. Oklahoma charges a 1.0 percent (\$5.00 minimum) fee on wire transfers. The Department adjusted for the difference in the population between Oklahoma (4,019,271) and Kansas (2,936,716) and adjusted for the higher excise tax of 1.5 percent created under HB 2710. The Department assumed a 3.0 percent annual growth in excise tax receipts.

The Department of Revenue indicates that it would require a total \$984,530 from the State General Fund, including \$172,092 for 3.00 new Customer Representative FTE positions and \$812,438 to implement the bill and to modify the automated tax system in FY 2025. The Department estimates that ongoing expenses for salaries and wages for the 3.00 FTE positions would total \$172,092 from the State General Fund in FY 2026. 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 Office of the State Bank Commissioner indicates based on growth in the money transmitter industry, the agency would expend \$168,750 in FY 2025 and \$170,250 in FY 2026 for 1.00 Attorney FTE position, 1.00 Examiner/Investigator FTE position, and associated operating expenditures. The positions would be used for investigations and legal actions related to money transmitters by wire. The agency assumes that the Department of Revenue would not provide assistance with these investigations and legal actions other than providing the excise tax information concerning a money transmitter by wire to the Office.

The Office of the Attorney General indicates the bill would increase revenues from the new Criminal Litigation Fund which would provide resources to pay for costs of investigating and prosecuting criminal cases; however, the agency is unable to estimate the amount of new resources that would be available from the fund. The agency would administer the fund within its existing resources.

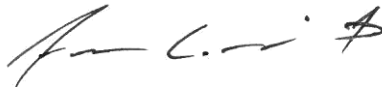
The Kansas Bureau of Investigation estimates the bill would increase fee fund revenues by \$4.9 million beginning in FY 2026. The agency consulted with the state of Oklahoma, which has a similar law with a \$5 minimum for each transaction and 1.0 percent fee for any transaction over \$500. Oklahoma's fee revenues have averaged approximately \$11.5 million over ten years. Oklahoma also allows for an income tax credit equal to an amount owed by the money transmitter fee and estimated approximately \$1.5 million of the \$11.5 million was refunded. Kansas' population is 73.0 percent the size of Oklahoma's population. KBI estimates approximately \$8.4 million ($\$11,500,000 \times 73.0$ percent) in fees at a 1.0 percent rate. KBI assumes most money transmitter by wires would be greater than \$500 and using the 1.5 percent required in the bill estimates \$12.6 million in fee revenues ($\$8,400,000 \times 1.5$ percent). The agency also assumes a similar average of tax credits as Oklahoma of 13.0 percent or \$1.6 million. Therefore, the agency estimates the bill would generate \$11.0 million ($\12.6 million - \$1.6 million) in fees beginning in FY 2026 that would be deposited into the State General Fund. According to the bill, 45.0 percent or \$4.9 million would be transferred to the Wire Transfer Fee Fund.

The Kansas Criminal Justice Coordinating Council indicates that it would use revenues from the Prosecutor and Law Enforcement Grant Fund for administrative costs for overseeing the grant program as directed in HB 2710. The Council assumes the fund balance would be minimal in the first year, FY 2025, and begin making grant awards in the second year, FY 2026. However, the Council is unable to estimate the fiscal effect enactment of the bill would have on the Council's operations.

The Office of Judicial Administration indicates HB 2710 could increase the number of cases filed in the district courts because the provisions create a new crime. These provisions would increase time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. Since the crime carries a misdemeanor penalty, there could also be additional supervision of offenders by court services officers. Enactment of the bill could increase the

collection of docket fees, fines, and supervision fees that would be deposited into the State General Fund. The agency indicates that it is unable to estimate a precise fiscal effect. Any fiscal effect associated with HB 2710 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt" with a stylized flourish at the end.

Adam C. Proffitt
Director of the Budget

cc: Trisha Morrow, Judiciary
Lynn Robinson, Department of Revenue
William Hendrix, Office of the Attorney General
Paul Weisgerber, Kansas Bureau of Investigation
Barbara Albright, Office of the State Bank Commissioner
Scott Schultz, Kansas Sentencing Commission
Jennifer King, Department of Corrections