

March 16, 2011

The Honorable Richard Carlson, Chairperson
House Committee on Taxation
Statehouse, Room 274-W
Topeka, Kansas 66612

Dear Representative Carlson:

SUBJECT: Fiscal Note for HB 2365 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2365 is respectfully submitted to your committee.

HB 2365 would require licensed money transmitters to collect an excise tax of \$15 for each transaction of \$500 or less, or 3.0 percent on each transaction above \$500. Resident individuals charged the excise tax can apply for and receive a refund of the amount of the tax when filing their Kansas income tax return each year. The excise tax would not apply to: banks, government agencies, a board of trade designated as a contract market under the federal Commodity Exchange Act, registered futures commission merchants under federal commodities laws, a person who provides clearance or settlement services as a registered clearing agency under federal securities laws, operators of a payment system providing services between or among persons, and securities broker-dealers under federal or state securities laws.

The licensed money transmitter would be required to file a return and pay the excise taxes to the Department of Revenue on a monthly basis. The taxes collected would be deposited in the newly created Drug Money Laundering and Public Safety Fee Fund of the Kansas Bureau of Investigation (KBI). All expenditures from this fund would be used to support the KBI forensic laboratory construction project, the KBI salary and equipment improvement initiative, special public safety programs of the KBI approved by the Attorney General, and for the reimbursement of the refundable income tax credit available to resident individuals in the amount equal to the excise tax. The Department of Revenue, Office of the State Bank Commissioner (OSBC), and KBI would have the authority to issue rules and regulations to enforce the provisions of this bill. The Department of Revenue would be authorized to share information with the OSBC to assist in audits and ensure that the provisions of the bill are enforced.

Estimated State Fiscal Effect				
	FY 2011 SGF	FY 2011 All Funds	FY 2012 SGF	FY 2012 All Funds
Revenue	--	--	--	\$8,829,975
Expenditure	--	--	\$532,500	\$532,500
FTE Pos.	--	--	--	2.00

The KBI estimates that HB 2365 would generate \$8,829,975 to the Drug Money Laundering and Public Safety Fee Fund in both FY 2012 and FY 2013. No data exist on the amount of money transmitted in Kansas that would now be subject to this new excise tax. To formulate this estimate, the KBI reviewed data on a similar provision that was passed in Oklahoma in 2009. The Oklahoma tax generates annual revenues of approximately \$7.7 million from a 1.0 percent fee collected on each money transaction. HB 2365 would assess an excise tax that is three times the amount of the Oklahoma fee; however, the bill would also allow resident individuals who are charged the excise tax to apply for and receive a refund of the amount of the excise tax when filing their Kansas income tax return. Assuming that money transaction behavior is similar in Kansas as it is in Oklahoma and factoring that the Kansas population is approximately 76.5 percent that of Oklahoma, it is estimated that the excise tax would generate \$17,659,950 in revenue (76.45 percent x \$7.7 million x 3.0). Assuming that half of this amount would be refunded to resident individuals when they file their Kansas income tax return, it is estimated that the bill would generate a total of \$8,829,975 in revenue to the Drug Money Laundering and Public Safety Fee Fund. This funding would be used to support the KBI forensic laboratory construction project and other public safety programs in Kansas.

The Department of Revenue indicates the bill would require \$532,500 from the State General Fund in FY 2012 for administrative costs to implement this new excise tax, create a new income tax refund, and to modify the automated tax system. The Department's cost estimate includes 2.00 FTE positions to process and to provide processing income tax refunds, support, and testing of the new tax system. The Department estimates that the bill would require 9,500 hours of in-house programming and testing which would be performed by existing staff of the Department of Revenue. However, 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, expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Bank Commissioner indicates that the agency is currently responsible for regulating money transmitters. The bill would require additional staff time to verify money transmitters' transaction records and excise tax collections. The Commissioner indicates the additional responsibilities of this bill would be incorporated into its regular audit schedule for money transmitters. The bill would also increase costs associated with enforcement actions for non-payment of the excise tax. However, the agency indicates that the additional costs associated with this bill would be negligible and could be absorbed within existing resources. The agency indicates that the bill may reduce the number of money transmitters operating in the state and

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March 16, 2011

Page 3—Fisc_Note_Hb2365

also reduce the amount of money that is transmitted each year, which would reduce the amount of revenue that would be generated as a result of this bill. The agency does not indicate whether such a reduction occurred in Oklahoma upon enactment of its legislation. However, the agency does not have data to provide a precise fiscal effect on the amount of revenue that would be generated as a result of this bill or the effect on the number of money transmitters operating in the state. Any fiscal effect associated with HB 2365 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", written in a cursive style.

Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Steve Neske, Revenue
Linda Bundy, Banking
Linda Durand, KBI