

## MINUTES OF THE HOUSE TAXATION COMMITTEE

The meeting was called to order by Chairman Richard Carlson at 3:36 p.m. on March 16, 2011, in Room 783 of the Docking State Office Building.

All members were present.

Representative Donohoe-excused  
Representative Kleeb-excused  
Representative Schwab-excused

Committee staff present:

Gordon Self, Office of the Revisor of Statutes  
Scott Wells, Office of the Revisor of Statutes  
Chris Courtwright, Kansas Legislative Research Department  
Michael Wales, Kansas Legislative Research Department  
Marla Morris, Committee Assistant  
Allen Jeffus, Office Assistant

Conferees appearing before the Committee:

Richard Cram, Kansas Department of Revenue  
Whitney Damron, The City of Topeka  
David Hutchings, Kansas Bureau of Investigation  
Judi Stork, Office of the State Bank Commissioner  
William Sneed, Western Union  
Pat Hubbell, American Express  
Representative Stan Frownfelter  
John Smith, Administrator, Department of Credit Unions

Conferees providing written-only testimony:

Ed Klumpp, The Kansas Sheriffs Association, Kansas Association of Chiefs of Police, Kansas Peace Officers Association  
Michael Murray, Kansas Food Dealers Association & Retail Grocer Association of Greater Kansas City

Others attending:

See attached list.

Bill Introductions: None

Committee Chairman Carlson opened discussion and action on:

### **SB 198 - Rural Opportunity Zones**

Chris Courtwright, Kansas Legislative Research, briefed the Committee on **SB 198**. The bill, in its original form was similar to **HB 2331 - Creating rural opportunity zones**, but passed in the Senate with several amendments. He defined the amendments and stood for questions.

Representative Goico moved SB 198 favorable for passage, Representative Powell seconded the motion. In a show of hands vote, the motion failed.

Following discussion, Representative Schwartz moved to reconsider the vote, Representative Brunk seconded the motion. The motion carried in a show of hands vote.

Representative Goico moved to pass SB 198 favorable for passage, Representative Powell seconded the motion.

Discussion continued, Representative Dillmore stated a preference to maintain the original 40 counties offered in **HB 2331**.

Representative Dillmore moved a substitute motion to place contents of HB 2331, as it exists, into HS Substitute for SB 198. The motion was seconded by Representative Gatewood. Discussion was held on

## CONTINUATION SHEET

The minutes of the House Taxation Committee at 3:36 p.m. on March 16, 2011, in Room 783 of the Docking State Office Building.

the substitute motion. The motion failed in a show of hands vote.

Representative Goico closed on the main motion to pass **SB 198** favorable for passage. The motion carried in a show of hands vote.

Chairman Carlson opened discussion and action on:

### **SB 10 - AN ACT concerning sales taxation.**

Representative Powell moved to pass **SB 10** favorable. The motion was seconded by Representative Goico. Representative Powell recommended **SB 10** be passed as presented, as it is specific to Edwards County. The motion carried unanimously.

Chairman Carlson opened the hearing on:

### **HB 2392-Establishes a process for federal debt setoff of delinquent state debt**

Chairman Carlson directed the Committee to the Kansas Division of Budget Fiscal Note (Attachment 1), and the Fiscal Note from Richard Cram, Kansas Department of Revenue (Attachment 2) for **HB 2392** placed in their daily packet.

Richard Cram, Kansas Department of Revenue briefed the Committee on **HB 2392**, which would allow the State of Kansas to enter into an agreement with the federal government in order to facilitate cooperation between two entities to increase the collection of delinquent debts. He introduced General Counsel, David Clauser; Staff Attorney Robert Challquist; and A.J. Kotich, Attorney from the Department of Administration, who were present to assist in responding to questions concerning the bill. Mr. Cram requested a balloon amendment striking Section 2 of the bill, beginning at Page 1, Line 28 and continuing through Page 3, Line 3 (Attachment 3).

There were no other conferees wishing to address the bill, and Chairman Carlson closed the hearing on **HB 2392**.

Due to the non-controversial nature of **HB 2392**, there was no objection to working the bill.

Discussion and action on:

### **HB 2392 - Establishes a process for federal debt setoff of delinquent state debt**

Representative Frownfelter moved to pass **HB 2392** favorable. The motion was seconded by Representative Hayzlett.

Representative Frownfelter moved to amend **HB 2392**. Seconded by Representative Powell, the motion carried.

Representative Frownfelter moved passage of **HB 2392** as amended. The motion was seconded by Representative Powell, and the motion carried.

Chairman Carlson opened the hearing on:

### **SB 177 - Statute of limitations increased for taxpayers claiming certain refunds and credits**

Chairman Carlson directed the Committee to the fiscal note on **SB 177** from Richard Cram, Kansas Department of Revenue (Attachment 4).

Chris Courtwright, Kansas Legislative Research Department, briefed the committee on **SB 177**. Passage of the bill would establish a three-year statute of limitations for taxpayers to claim sales tax exemptions. Refunds are limited to one year under current law. The bill would extend the limitation retroactively upon enactment, thus making eligible certain exemption claims that would currently be ineligible. He stood for

## CONTINUATION SHEET

The minutes of the House Taxation Committee at 3:36 p.m. on March 16, 2011, in Room 783 of the Docking State Office Building.

questions.

There were no other conferees present to address **SB 177**.

Chairman Carlson closed the hearing on **SB 177**.

Chairman Carlson opened the hearing on:

### **SB 59 - Interest rate charged; delinquent or unpaid tax and overpayment of taxes**

Scott Wells, Office of the Revisor of Statutes, briefed the committee on **SB 59**. **SB 59** would set a floor on the rate of interest charged on delinquent or underpaid property taxes beginning in FY 2012 at not less than ten percent for tax delinquencies. The original form of the bill provided a floor of 10 percent based on the federal rate which fluctuates up and down. In Senate amendments to the bill, the interest rate applies to only property tax and delinquencies or underpayments of \$10,000 or more. The bill provides for payment of the same interest rates by the county, to the taxpayer, when certain clerical errors occur relating to appraisals and assessments. He stood for questions.

Chairman Carlson directed the Committee to the fiscal note on **SB 59** from Richard Cram, Kansas Department of Revenue (Attachment 5).

Whitney Damron, The City of Topeka spoke in support of **SB 59**. The City of Topeka believes a rate of not less than ten percent would provide a relatively constant delinquency interest rate, and would provide an incentive to a taxpayer to find alternative financing than their local units of government (Attachment 6). He stated the interest rate has fluctuated from a high of twelve percent in 2001 to the current low of seven percent. He stood for questions.

There were no other conferees present to address **SB 59**.

Chairman Carlson closed the Hearing on **SB 59**.

Chairman Carlson opened the hearing on:

### **HB 2365 - Imposing a tax on wire transmission of moneys outside the state**

Chairman Carlson directed the Committee to the fiscal note on **HB 2365** from Richard Cram, Kansas Department of Revenue (Attachment 7).

Scott Wells, Office of the Revisor of Statutes, briefed the committee on **HB 2365**. The bill provides a excise tax of \$15.00 for each transaction of \$500 or less, or an amount equal to three percent of any transaction in excess of \$500 for transmission of money by money transmitters. The bill provides for refundable credits for resident individuals when filing their Kansas income tax. The bill requires monthly reporting to the necessary State agencies. The bill creates a drug money laundering and public safety fee fund, to be administered by the Kansas Bureau of Investigation (KBI). He stood for questions.

David Hutchings , Special Agent, (KBI), expressed an enthusiastic support for **HB 2365** on behalf of the KBI. He stated, Oklahoma passed similar legislation, with a one percent fee, **HB 2365** seeks a three percent fee. Oklahoma collected 7.7 million dollars in the first year to support public safety programs (Attachment 8). Most legitimate funds move by bank transfers or by internet services such as PayPal, and a request for return of any fees assessed would be allowed through filing of a Kansas Income Tax Return. This bill provided for a fee on funds that move under the table. He stood for questions.

Judi Stork, Deputy Bank Commissioner, Office of the State Bank Commissioner presented neutral testimony on **HB 2365**. Her testimony outlined the three requirements for obtaining a money transmitters license in Kansas (Attachment 9). The Office of the State Bank Commissioner offered five amendments for consideration by the Committee. She stood for questions.

William Sneed, Western Union, testified in opposition to **HB 2365**. He stated the imposition of a \$15.00

## CONTINUATION SHEET

The minutes of the House Taxation Committee at 3:36 p.m. on March 16, 2011, in Room 783 of the Docking State Office Building.

minimum excise fee in the State of Kansas would be detrimental to the small businesses in Kansas providing money transmittal services. This bill will only put an increased economic burden on the citizens of Kansas and small businesses. Mr. Sneed stated, the exemption of banks puts Western Union at a disadvantage (Attachment 10). He stood for questions.

Pat Hubbell, American Express, opposes **HB 2365** and submitted a copy of a proposed amendment for a change on Page 4, Line 39 by removing the word 'banks', and inserting the words 'financial institutions, their affiliates or subsidiaries;' (Attachment 11).

Representative Frownfelter, introduced the legislation and testified in support of **HB 2365**. The intent of the bill is capture a portion of the income leaving the State of Kansas through wire transfers, allowing Kansas residents to have the fee returned through filing of their Kansas Income Tax Form. After these returns are made to Kansans, the state would use the additional fee receipts to bond a new lab for the KBI, and shore up the prison system in the State of Kansas (Attachment 12).

John Smith, Administrator, Department of Credit Unions, addressed the committee to question inclusion of credit unions in **HB 2365**. The Chairman stated that such amendment is before the Committee to cover credit unions.

Chairman Carlson presented the written-only testimony from conferees on **SB 2365**: Proponent-Ed Klumpp, The Kansas Sheriffs Association, Kansas Association of Chiefs of Police, Kansas Peace Officers Association (Attachment 13); and Opponent-Michael Murray, Kansas Food Dealers Association & Retail Grocer Association of Greater Kansas City (Attachment 14).

Chairman Carlson closed the hearing on **HB 2365**.

The meeting was adjourned at 5:07 p.m.

# HOUSE TAXATION COMMITTEE

DATE: 3/16/11

NAME	REPRESENTING
Bill Sneed	Western Union
LARRY R BAKER	LKM
Haley Davel	KEMA
Joe Mosiman	PARCA of KS
Whitney Jam	City of Topeka
Rob Menly	KENNEY & Assoc.
Nuke Murray	KFDA
Dina Fisk	VERIZON
Lewis Low	Little Co. Relating
DAVID HUTCHINGS	KBT
Colin Cates	Sandberg Group
Michelle Conner	Cap. Strategies
Rob Watts	NONE
T	
Kay Clark	Bright & Campbell
Jen Bruning	OP. Chamber
DEREK HEIN	HEIN LAW FIRM
John P. Smith	KS Dept of Credit Unions
Ron Seiber	KCFE

HOUSE TAXATION COMMITTEE

DATE: 3-16-2011

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Landon State Office Building  
900 S.W. Jackson, Room 504  
Topeka, KS 66612



Steven J. Anderson, CPA, MBA, Director

Division of the Budget

phone: 785-296-2436  
fax: 785-296-0231  
steve.anderson@budget.ks.gov

Sam Brownback, Governor

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 2392 by House Committee on Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2392 is respectfully submitted to your committee.

HB 2392 would allow the Director of Accounts and Reports to enter into an agreement with the federal Department of the Treasury for participation in the Treasury Offset Program (TOP). Under the agreement, the State of Kansas would provide TOP with state tax and nontax debts in which federal payments to individuals and vendors would be matched. If a successful match is made, an administrative setoff (the matching of federal payments against state tax or nontax debts) would occur. In addition, State of Kansas payments to individuals and vendors would be reviewed against federal nontax obligations. If a match occurred, the payments would be intercepted to apply against the federal nontax obligations.

While the Department of Administration already has a state debt setoff program in place, new processes would have to be developed to manage and maintain TOP due to different federal requirements. Under the current Setoff Program, debts are placed in the Kansas Debt Recovery System (KDRS) and state payment files are matched against KDRS. If a match occurs, the payment is suspended. Under TOP, federal debts would not be maintained in KDRS, but rather payment files from the state's accounting system would be sent nightly to the Department of the Treasury. The Treasury would then perform the matching process, and notify the state of any monies available to intercept. While the Department of the Treasury states that this process would take two hours, SMART (the state's accounting system) processing would be delayed while the matching process takes place, and SMART programs would need to be modified to continue processing, less the amount of federal offset. However, the Department of Administration does not have an estimate for the costs for the modifications to SMART.

In addition, separate and new processes outside the current setoff program would need to be developed to track and remit the collections made on behalf of the Department of the Treasury, and to notify debtors that their state payment has been intercepted for a federal debt. All state payments would be subject to TOP, with the exception of the majority of income tax

House Taxation

Date: 3-16-11  
Attachment: 1

refunds and other state payments exempted by statutory authority. The Department of Revenue issues the majority of the income tax refunds from its own tax system and not through SMART.

The “due process notification” requirement for TOP would be different than those of the current setoff program. Due process requirements under the TOP program would occur prior to the debt being submitted to the federal system. Under the current setoff program, debts are matched upon, and then a “notice of intent” is sent to the individual whose payment is being held. Within the “notice of intent,” the appeals process is explained. State agencies wishing to submit debts to the TOP Program would have to change their business practices to provide notice of the debt and the intent to use the federal offset program in accordance with federal rules and regulations. State agencies would also have to review federal law and regulations concerning their particular debts to determine if additional due process requirements are needed. The current setoff process would not be used to notify the debtors or agencies making payments. A separate process would need to be established and maintained to manage the notification process. In addition, state agencies wishing to submit debts to TOP would have to certify to the federal Financial Management System (FMS) that the debt is past due, legally enforceable, and the creditor agency has provided the debtor with a notice and an opportunity to review in accordance with applicable laws.

There is no fee associated with participation in TOP as a payment agency; however, TOP would charge a fee for each successful offset. TOP would deduct the offset fees from the total amount of funds collected and credit the agency’s account with the net offset amount. The creditor agency may add any costs associated with collecting a debt to the amount of the debt, as authorized by federal law. TOP now includes an indicator to provide for the fee amount being charged to the debtor automatically if the agency is allowed to pass this cost to the debtor. TOP would estimate the fee charged to the creditor agency on an annual basis, based on the projected volume of offsets and corresponding costs, in accordance with activity based costing, and will provide supporting information regarding the calculation of the fee as requested.

Because of the different requirements of both offset programs, a separate debt file would have to be maintained for submission to the Department of the Treasury. As this process would be new for the State of Kansas, additional staff would be required to manage and maintain this reciprocating process. The Department of Administration does not have an estimate of the number of staff or associated costs required for TOP; the agency notes that further study would be required to determine the actual resources necessary to manage and maintain this program after implementation. Other unknown costs are the actual costs or impacts to the state financial system. Modification would be required for this process, such as new outbound and inbound interfaces to handle submitting the payment file and the return of identified matches, setting up a credit memo process similar to the process used for the current setoff program. An agency notification process would also be required. In addition, the two-hour match process by TOP would add a two-hour delay to the nightly batch processes, potentially delaying system availability for users the following morning.

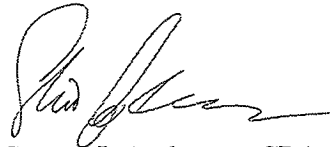
According to the Kansas Department of Revenue, enactment of HB 2392 could increase tax revenue to the State General Fund by up to \$1.7 million in FY 2012 and \$3.5 million in FY



The Honorable Richard Carlson, Chairperson  
March 16, 2011  
Page 3—Fisc\_Note\_Hb2392

2013. The agency assumes a six-month lead time to implement the legislation. The Department notes that it recently participated in a test with the Department of the Treasury, which indicated that Kansas could have collected approximately \$320,000 in one month if the state would have been part of the reciprocal offset agreement with the federal government. The Department estimated the additional revenues to the State General Fund from the results of the test. Any administrative costs to the Department would depend on the number of taxpayers contacting the Department regarding offsets. Any fiscal effect associated with HB 2392 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", with a stylized flourish at the end.

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

cc: Pat Higgins, Administration

**Marla Morris**

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**From:** Richard.Cram@kdor.ks.gov  
**Sent:** Wednesday, March 16, 2011 9:55 AM  
**To:** Chris Courtwright; Marla Morris; Gordon Self; sean.tomb@budget.ks.gov  
**Subject:** Fiscal Note HB 2392  
**Attachments:** pic14343.jpg

----- Forwarded by Richard Cram/Revenue/KDOR on 03/16/2011 09:48 AM -----

2011 House Bill 2392b Fiscal Note  
Introduced as a House Bill

**Fiscal Note Development**

Bill Assigned: 03/15/2011

Responses Due: 03/17/2011

Note Due to Budget: 03/18/2011

Status: Sent to Budget

Prepared By: Steve A Stotts

Preliminary Completed: 03/15/2011

Reviewed by P&R: 03/15/2011

Approved by Secretary: 03/16/2011

Sent to Budget: 03/16/2011

Fiscal Impact: Passage of this bill could increase state general fund revenues by \$1.7 million in fiscal year 2012 and \$3.5 million in fiscal year 2013.

Administrative Impact: There will be administrative costs associated with this bill. Costs for testing and programming along with potential FTE costs depending on the number of taxpayers that will be contacting the department regarding offsets of their federal payments.

House Taxation  
Date: 3-16-11  
Attachment: 2

M E M O R A N D U M

To:  
Division of Budget

From: Kansas Department of Revenue

Date: 03/16/2011

Subject: House Bill 2392  
Introduced as a House Bill

Brief of Bill

House Bill 2392, as introduced, would allow the director to enter into agreements with the federal department of the treasury or its successor that provides for offsetting federal and state payments authorized by federal and state law, except that other setoffs occur prior to the setoffs authorized under this bill.

Any agreement entered into by the director may provide that the federal department of the treasury may deduct a fee from each administrative setoff and state payment setoff. All information exchanged between the department of the treasury and the department of administration and the debtor necessary to accomplish the intent of the bill is lawful.

Section 2 amends K.S.A. 75-6202 to include the department of the treasury in the definition of foreign state or foreign state agency.

Section 3 amends K.S.A. 75-6201 to allow the director to setoff the amount owed by a debtor to the department of the treasury.

The effective date of this bill is on publication in the statute book.

Fiscal Impact

Passage of this bill could increase state general fund revenues by \$1.7 million in fiscal year 2012 and \$3.5 million in fiscal year 2013.

Recently the department participated in a test with the financial management service of the department of the treasury. The test indicated that Kansas could have collected about \$320,000 in one month if Kansas had been part of the reciprocal offset agreement with the department of treasury. Using the test sample number we would assume that for the full year additional tax collections through this program would generate about \$3.5 million on an annual basis. Assuming about six months lead time for this program to become operational, about \$1.7 million in additional state general fund revenues from delinquent taxes are estimated to be collected in fiscal year 2012, and the full amount of \$3.5 million in fiscal year 2013.

Administrative Impact

There will be administrative costs associated with this bill. Costs for testing and programming along with potential FTE costs depending on the number of taxpayers that will be contacting the department regarding offsets of their federal payments.

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact

Approved By:

(Embedded image moved to file: pic14343.jpg) Nick Jordan Secretary of Revenue

Policy & Research  
915 SW Harrison St  
Topeka KS 66612-1588

Nick Jordan, Secretary  
Richard Cram, Director



Phone: 785-296-3081  
FAX: 785-296-7928  
www.ksrevenue.org

Sam Brownback, Governor

March 16, 2011

House Taxation Committee

Testimony in Support of House Bill 2392

Presented by Richard Cram

Chairman Richard Carlson and Members of the Committee:

House Bill 2392 would allow the State of Kansas to enter into an agreement with the federal government in order to facilitate cooperation between the two entities to increase the collection of delinquent debts. Such an agreement has already been authorized under federal law and some other states have already entered into similar arrangements.

The program will be administered by state and federal collection authorities in the following manner:

1. The state side of the program will be administered by the Kansas Department of Administration. The Department of Administration will be allowed to collect an administrative fee as determined by K.S.A. 75-6210(b) to offset the costs of implementing and running the program.
2. The department of administration and the federal treasury department will exchange data identifying those persons or entities that owe state and federal debts.
  - a. The program will allow Kansas to submit any delinquent debts that are owed to the State, except state debts that are already being collected through other federal offset programs such as child support, food stamps, unemployment insurance and Medicaid.
3. The federal treasury department and the Kansas Department of Administration will check the identifying information against various databases of payments that are scheduled to be made. When a match is found between a person/entity that is to receive a payment and a person/entity that owes debt, the program will allow for a setoff of those debts: the creditor agency will receive those payments instead of the delinquent party.

4. An offset of federal debts under this program will happen after those offsets authorized by K.S.A. 75-6201 *et seq.*, which allows for offsets of state and local debts against state payments through the Department of Administration's debtor setoff program.
5. Due process will be satisfied per the terms of the agreement:
  - a. The delinquent debtor will receive a 60-day notice of the intent to offset, thus providing ample opportunity to enter into acceptable pay arrangements, thereby avoiding the use of the offset program; and
  - b. The setoff will only be used to collect debts that are not being disputed; and
  - c. The setoff will be used only in cases where other collection efforts have proven ineffective.

The State of Kansas, through the Department of Administration, currently administers a similar setoff program with the State of Missouri Department of Revenue. Additionally, the State of Kansas Department of Revenue currently participates in an income tax offset program with the Internal Revenue Service that allows federal income tax refunds to be offset against state income and withholding tax debts.

The Department's fiscal note is attached.

The Department respectfully requests that the attached balloon amendment be made to the bill, striking section 2 (amending K.S.A. 2010 Supp. 75-6202(j) definition of "foreign state or foreign state agency," which is not needed).

## MEMORANDUM

**To:** Mr. Steve Anderson, Director  
Division of Budget

**From:** Kansas Department of Revenue

**Date:** 03/16/2011

**Subject:** House Bill 2392  
Introduced as a House Bill

### **Brief of Bill**

House Bill 2392, as introduced, would allow the director to enter into agreements with the federal department of the treasury or its successor that provides for offsetting federal and state payments authorized by federal and state law, except that other setoffs occur prior to the setoffs authorized under this bill.

Any agreement entered into by the director may provide that the federal department of the treasury may deduct a fee from each administrative setoff and state payment setoff. All information exchanged between the department of the treasury and the department of administration and the debtor necessary to accomplish the intent of the bill is lawful.

Section 2 amends K.S.A. 75-6202 to include the department of the treasury in the definition of foreign state or foreign state agency.

Section 3 amends K.S.A. 75-6201 to allow the director to setoff the amount owed by a debtor to the department of the treasury.

The effective date of this bill is on publication in the statute book.

### **Fiscal Impact**

Passage of this bill could increase state general fund revenues by \$1.7 million in fiscal year 2012 and \$3.5 million in fiscal year 2013.

Recently the department participated in a test with the financial management service of the department of the treasury. The test indicated that Kansas could have collected about \$320,000 in one month if Kansas had been part of the reciprocal offset agreement with the department of treasury. Using the test sample number we would assume that for the full year additional tax collections through this program would generate about \$3.5 million on an annual basis. Assuming about six months lead time for this program to become operational, about \$1.7 million

in additional state general fund revenues from delinquent taxes are estimated to be collected in fiscal year 2012, and the full amount of \$3.5 million in fiscal year 2013.

**Administrative Impact**

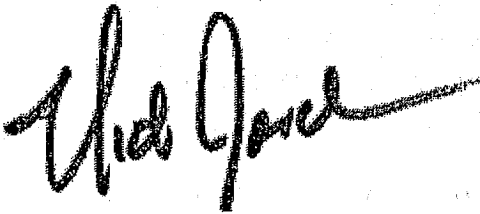
There will be administrative costs associated with this bill. Costs for testing and programming along with potential FTE costs depending on the number of taxpayers that will be contacting the department regarding offsets of their federal payments.

**Administrative Problems and Comments**

**Taxpayer/Customer Impact**

**Legal Impact**

Approved By:

A handwritten signature in black ink, appearing to read "Nick Jordan", with a long horizontal flourish extending to the right.

Nick Jordan  
Secretary of Revenue



Session of 2011

HOUSE BILL No. 2392

By Committee on Taxation

3-15

1 AN ACT concerning setoff against certain debtors; relating to federal  
2 department of the treasury, agreements, procedure and fees; amending  
3 K.S.A. 75-6204 and K.S.A. 2010 Supp. 75-6202 and repealing the  
4 existing sections.

5  
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. (a) The director may enter into one or more  
8 agreements with the federal department of the treasury or its successor that  
9 provide for offsetting federal and state payments, as authorized by federal  
10 law and K.S.A. 75-6204, and amendments thereto, except that other setoffs  
11 under K.S.A. 75-6201 et seq., and amendments thereto, occur prior to the  
12 setoffs authorized under this section.

13 (b) Any agreement entered into by the director pursuant to subsection  
14 (a) may provide that the federal department of the treasury or its successor  
15 may deduct a fee from each administrative setoff and state payment setoff.

16 For purposes of this subsection: (1) "Administrative setoff" means any  
17 offset of federal payments to collect state tax and nontax obligations; and

18 (2) "state payment setoff" means any offset of state payments to  
19 collect federal nontax obligations.

20 (c) The director is authorized to deduct a fee in an amount authorized  
21 under subsection (b) of K.S.A. 75-6210, and amendments thereto.

22 (d) Notwithstanding any provision of law prohibiting disclosure by  
23 the department of administration of the contents of debtor records or  
24 information, and notwithstanding any confidentiality statute of any state  
25 agency, all information exchanged between the department of  
26 administration, the federal department of the treasury and the debtor  
27 necessary to accomplish and effectuate the intent of this act is lawful.

28 Sec. 2. K.S.A. 2010 Supp. 75-6202 is hereby amended to read as  
29 follows: 75-6202. As used in this act:

30 (a) "Debtor" means any person who:

31 (1) Owes a debt to the state of Kansas or any state agency or any  
32 municipality;

33 (2) owes support to an individual, or an agency of another state, who  
34 is receiving assistance in collecting that support under K.S.A. 39-756, and  
35 amendments thereto, or under part D of title IV of the federal social  
36 security act, (42 U.S.C. § 651 et seq.), as amended; or

strike  
Section 2  
from the bill  
and renumber  
sections

1 (3) ☐ owes a debt to a foreign state agency.

2 (b) ☐ "Debt" means:

3 (1) ☐ Any liquidated sum due and owing to the state of Kansas, or any  
4 state agency, municipality or foreign state agency which has accrued  
5 through contract, subrogation, tort, operation of law, or any other legal  
6 theory regardless of whether there is an outstanding judgment for that sum.  
7 A debt shall not include special assessments except when the owner of the  
8 property assessed petitioned for the improvement and any successor in  
9 interest of such owner of property; or

10 (2) ☐ Any amount of support due and owing an individual, or an agency  
11 of another state, who is receiving assistance in collecting that support  
12 under K.S.A. 39-756, and amendments thereto, or under part D of title IV  
13 of the federal social security act, (42 U.S.C. § 651 *et seq.*), as amended,  
14 which amount shall be considered a debt due and owing the district court  
15 trustee or the department of social and rehabilitation services for the  
16 purposes of this act.

17 (c) ☐ "Refund" means any amount of Kansas income tax refund due to  
18 any person as a result of an overpayment of tax, and for this purpose, a  
19 refund due to a husband and wife resulting from a joint return shall be  
20 considered to be separately owned by each individual in the proportion of  
21 each such spouse's contribution to income, as the term "contribution to  
22 income" is defined by rules and regulations of the secretary of revenue.

23 (d) ☐ "Net proceeds collected" means gross proceeds collected through  
24 final setoff against a debtor's earnings, refund or other payment due from  
25 the state or any state agency minus any collection assistance fee charged  
26 by the director of accounts and reports of the department of administration.

27 (e) ☐ "State agency" means any state office, officer, department, board,  
28 commission, institution, bureau, agency or authority or any division or unit  
29 thereof and any judicial district of this state or the clerk or clerks thereof.  
30 "State agency" also shall include any district court utilizing collection  
31 services pursuant to K.S.A. 75-719, and amendments thereto, to collect  
32 debts owed to such court.

33 (f) ☐ "Person" means an individual, proprietorship, partnership, limited  
34 partnership, association, trust, estate, business trust, corporation, other  
35 entity or a governmental agency, unit or subdivision.

36 (g) ☐ "Director" means the director of accounts and reports of the  
37 department of administration.

38 (h) ☐ "Municipality" means any municipality as defined by K.S.A. 75-  
39 1117, and amendments thereto.

40 (i) ☐ "Payor agency" means any state agency which holds money for, or  
41 owes money to, a debtor.

42 (j) ☐ "Foreign state or foreign state agency" means the states of  
43 Colorado, Missouri, Nebraska, or Oklahoma or any agency of such states,

Strike Section  
2 from the bill  
and renumber  
sections

1 or the federal department of the treasury, which has entered into a  
2 reciprocal agreement pursuant to K.S.A. 75-6215 or section 1, and  
3 amendments thereto.

4 Sec. 3. ☐ K.S.A. 75-6204 is hereby amended to read as follows: 75-  
5 6204. (a) Subject to the limitations provided in this act, if a debtor fails to  
6 pay to the state of Kansas or any state agency, foreign state agency, ~~or a~~  
7 municipality or the federal department of the treasury an amount owed,  
8 the director may setoff such amount against any money held for, or any  
9 money owed to, such debtor by the state or any state agency.

10 (b) ☐ The director may enter into an agreement with a municipality for  
11 participation in the setoff program for the purpose of assisting in the  
12 collection of a debt as defined by K.S.A. 75-6202, and amendments  
13 thereto. The director shall include in any such agreement a provision  
14 requiring the municipality to certify that the municipality has made at least  
15 three attempts to collect a debt prior to submitting such debt to setoff  
16 pursuant to this act.

17 Sec. 4. ☐ K.S.A. 75-6204 [and K.S.A. 2010 Supp. 75-6202] are hereby  
18 repealed.

19 Sec. 5. ☐ This act shall take effect and be in force from and after its  
20 publication in the statute book.  
21

— strike section  
2 from the  
bill and  
renumber  
sections

**Marla Morris**

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**From:** Richard.Cram@kdor.ks.gov  
**Sent:** Wednesday, March 16, 2011 9:52 AM  
**To:** Chris Courtwright; Marla Morris; Gordon Self; sean.tomb@budget.ks.gov  
**Subject:** Fiscal Note SB 177  
**Attachments:** pic24355.jpg

----- Forwarded by Richard Cram/Revenue/KDOR on 03/16/2011 09:46 AM -----

2011 Senate Bill 177a Fiscal Note  
Introduced as a Senate Bill

**Fiscal Note Development**

Bill Assigned: 02/11/2011

Responses Due: 02/15/2011

Note Due to Budget: 02/16/2011

Status: Sent to Budget

Prepared By: Steven R Brunkan

Preliminary Completed: 02/16/2011

Reviewed by P&R: 02/16/2011

Approved by Secretary: 02/16/2011

Sent to Budget: 02/16/2011

Fiscal Impact: Potential increase in refunds, amount unknown

Administrative Impact: \$28,200

**M E M O R A N D U M**

To:  
Division of Budget

**House Taxation**  
Date: 3-16-11  
Attachment: 4

From: Kansas Department of Revenue

Date: 02/16/2011

Subject: Senate Bill 177  
Introduced as a Senate Bill

#### Brief of Bill

Senate Bill 177, as Introduced, amends the sales tax refund statute of limitations in K.S.A 79-3609 to allow for the filing of sales tax refunds up to three(3) years from the due date of the return, beginning on July 1, 2011. The statute currently limits refunds to a one (1) year period.

The Act would be effective July 1, 2011

#### Fiscal Impact

The proposal is expected to have a minimal fiscal impact. There is a potential for an increase in the amount of refunds issued, however the amount is unknown. The bill would enable businesses to have a longer period of time to apply and receive sales tax refunds. It would be expected that the amount of refunds issued would increase because the 3-year period allows businesses and consultants more time to research and identify potential refund claims and that businesses can file refund claims for prior years that they could not apply for when the 1-year limitation was imposed. The number and amount of these refunds are unknown but expected to be minimal as it is assumed most businesses filed the necessary requests at the time of the 2009 statute change.

#### Administrative Impact

The change in the statute of limitations requires the updating of the tax processing system to change certain edits. The estimated cost is \$28,200 which includes the programming, testing and website changes.

#### Administrative Problems and Comments

The proposal reverts the statute back to a three (3) year statute of limitation for the requesting of sales tax refunds. The statute was amended by the 2009 legislature to limit refunds to 1 year from the due date of the return.

#### Taxpayer/Customer Impact

Changes the statute of limitations for sales tax refunds back to 3 years from 1 year.

#### Legal Impact

#### Approved By:

(Embedded image moved to file: pic24355.jpg) Nick Jordan Secretary of Revenue

**Marla Morris**

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**From:** Richard.Cram@kdor.ks.gov  
**Sent:** Wednesday, March 16, 2011 9:51 AM  
**To:** Chris Courtwright; Marla Morris; Gordon Self; sean.tomb@budget.ks.gov  
**Subject:** Fiscal Note SB 59  
**Attachments:** pic04313.jpg

----- Forwarded by Richard Cram/Revenue/KDOR on 03/16/2011 09:44 AM -----

2011 Senate Bill 059c Fiscal Note  
Amended by Senate Committee

Fiscal Note Development

Bill Assigned: 02/23/2011

Responses Due: 02/25/2011

Note Due to Budget: 02/28/2011

Status: Sent to Budget

Prepared By: Steve A Stotts

Preliminary Completed: 02/23/2011

Reviewed by P&R: 02/23/2011

Approved by Secretary: 02/23/2011

Sent to Budget: 02/24/2011

Fiscal Impact: Passage of this bill will not impact state  
general fund revenue.

Administrative Impact: None.

M E M O R A N D U M

To:

1

House Taxation  
Date: 3-16-11  
Attachment: 5

Division of Budget

From: Kansas Department of Revenue

Date: 02/23/2011

Subject: Senate Bill 59  
Amended by Senate Committee

Brief of Bill

Senate Bill, as amended by senate committee, amends K.S.A. 79-1701a to increase the amount of interest paid on the overpayment of property taxes to the interest rate prescribed in K.S.A. 79-2968, plus two percent.

Section 2 amends K.S.A. 79-2968 to set the interest rate on property tax underpayments or delinquent taxes of \$10,000 or more at a minimum of 10%, beginning on and after January 1, 2012.

The effective date of this bill is on publication in the statute book.

Fiscal Impact

Passage of this bill will not impact state general fund revenue.

Administrative Impact

None.

Administrative Problems and Comments

Taxpayer/Customer Impact

Legal Impact

Approved By:

(Embedded image moved to file: pic04313.jpg) Nick Jordan Secretary of Revenue



# CITY OF TOPEKA

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City Manager and CEO  
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Fax: (785) 368-3909  
[www.topeka.org](http://www.topeka.org)

## TESTIMONY

TO: The Honorable Richard Carlson, Chair  
And Members of the House Taxation Committee

FROM: Whitney Damron  
On behalf of the City of Topeka

RE: SB 59 - An Act concerning taxation; relating to delinquent or unpaid taxes  
and overpayment of taxes; pertaining to the rate of interest.

DATE: March 16, 2011

Good afternoon Mr. Chairman and Members of the Committee: I am Whitney Damron and I appear before you today on behalf of the City of Topeka in support of SB 59 that would set a floor on the rate of interest charged on delinquent property taxes beginning in TY 2012 at not less than ten percent for tax delinquencies in excess of \$10,000.00.

SB 59 was introduced at the request of the City of Topeka and we appreciate the opportunity to provide testimony on this bill to you today.

By way of information, interest rates on delinquent property as outlined in Section 1 of the bill (current law) tie the rate to IRS Code Section 6621 (a)(2), which is the "Federal short term interest rate plus 3 percent" and the state adds 1 percent on top of that.

Included with my testimony is a Kansas Department of Revenue memorandum sent to all county treasurers, county clerks and county appraisers setting out the property tax interest rate for calendar year 2011. You will see from that document the current rate is 7 percent. That document also includes a history of the rates charged for the preceding ten years, which as you can see range from a high of 12 percent in 2001 to a low of 7 percent.

Interest rates are intended to create an incentive for taxpayers to pay their taxes. Unfortunately, the relatively low rates allowed under current law combined with the tightening of the credit markets, particularly for commercial property owners and developers has led many taxpayers to use cities, counties and other political subdivisions as their proverbial friendly banker. Except in this instance, the banker does not have the choice of deciding whether to extend credit, upon what terms or negotiate a repayment schedule.

House Taxation

Date: 3-16-11

Attachment: 6



According to information we obtained from Shawnee County, there is nearly \$21 million in delinquent property taxes owed to various political subdivisions within our county.

Included with my testimony is a listing from 2008 of the delinquent taxes owed in Shawnee County and to which taxing unit they are owed. In particular, I would call your attention to the delinquency on special assessments, which are typically incurred for development projects. In 2008, more than 10 percent of specials owed to Shawnee County were not paid and nearly 19 percent of specials owed to the City of Topeka were not paid.

These statistics are replicated in virtually every city and county in our state.

The City of Topeka is not unsympathetic to a taxpayer's inability to pay their property taxes. However, those who cannot or will not are subsidized by those who do. These delinquencies require cities and counties to increase taxes upon those who do pay and/or in the alternative, reduce services.

In order for a penalty to act as a deterrent, the cost/benefit must be readily determinable. The City of Topeka would respectfully suggest that most taxpayers have no idea what the rate of interest is on delinquent property taxes. One certainly cannot determine if from reading K.S.A. 79-2968, as that statute references a Federal IRS Code, which often changes and from that number they have to add another percent added under the statute.

Also of note, the bill was amended by the Senate Committee on Assessment and Taxation to provide for an increased rate of interest to be paid to a property tax payer in situations of erroneous assessment due to a clerical error by the taxing authority to the amount outlined under Section 1, plus two percent. For tax year 2011, that would be 9 percent (7 percent + 2 percent).

The City believes a rate of not less than ten percent would provide a relatively constant delinquency interest rate, but more importantly would provide an incentive to a taxpayer to find alternative financing than their local units of government.

On behalf of the City of Topeka, I thank you for your consideration of position on SB 59 and would ask for your favorable consideration of this legislation. I would be pleased to stand for questions at the appropriate time.

WBD  
Attachments

**KANSAS**  
DEPARTMENT OF REVENUE

Mark Parkinson, Governor  
Joan Wagnon, Secretary

[www.ksrevenue.org](http://www.ksrevenue.org)

August 10, 2010

TO: All County Treasurers, County Clerks and County Appraisers

FROM: Roger Hamm  
Division of Property Valuation

SUBJECT: Property Tax Interest Rates for Calendar Year 2011

In 1997, the legislature adopted a new law that had two major components. First, it required counties to pay interest to taxpayers. Second, it tied the interest rate the counties pay and collect to an annually updated interest rate prescribed in the Internal Revenue Code (IRC). Various statutes provide for percentage point adjustments to the federal rate for Kansas property tax purposes. For calendar year 2011, the interest rates are unchanged from 2010.

**Calendar Year 2011**

**Interest Rate Applied when a County Collects Interest**

Taxpayer's late payment of real or personal property taxes: 7%

**Interest Rates Applied when a County Pays Interest on Refunds:**

Payment under protests and "equalization" appeals	3%
Tax grievance/clerical error refunds ordered by COTA	3%
Clerical error refunds ordered by the county	5%

You should also be aware of three Board of Tax Appeals, now named the Court of Tax Appeals, decisions that were issued pertaining to the interest laws:

The Board ruled that when refunds are issued on or after July 1, 1997, as the result of a clerical error, interest should be paid to the taxpayer back from the date the applicant paid the taxes. (*See, e.g., In the Matter of the Application of Reynolds, Ernest and Darlene, for Relief from a Tax Grievance in Atchison County, Kansas*, Docket No. 97-3542-TG, Kansas Board of Tax Appeals Docket No. 97-3542-TG, November 6, 1997).

The Board of Tax Appeals held that interest is not paid on refunds ordered as the result of a taxpayer's request to reduce or abate personal property penalties on the basis of excusable neglect. (*See, e.g., In the Matter of the Application of Cross, Jerry/Cross Service for Relief from a Tax Grievance in Barton County, Kansas*, Board of Tax Appeals Docket No. 97-4953-TG, October 15, 1997).

The Board of Tax Appeals found that if there are delinquent taxes for the tax year at issue, no interest is to be paid on any refund for that year, even though a portion of the tax may have been paid in a timely fashion. (*See, e.g., In the Matter of the Protests Of Inspec. USA, Inc. DBA Jayhawk Fine Chemicals Corp. for Taxes Paid for 1999, 2000 and 2001 in Cherokee County, Kansas and In the Matter of the Protests of Allco Chemical Corp. for Taxes Paid for 1998, 1999, 2000, and 2001 in Cherokee County, Kansas*, Board of Tax Appeals Docket Nos. 2002-9125-PR thru 2002-9131-PR, June 18, 2003).

DIVISION OF PROPERTY VALUATION  
DOCKING STATE OFFICE BUILDING, 915 SW HARRISON ST., TOPEKA, KS 66612-1588  
Voice 785-296-2365 Fax 785-296-2320 <http://www.ksrevenue.org/>

Below is a recapitulation of some commonly asked questions with answers.

1. Question: Must the Court of Tax Appeals or an appellate court specifically order interest before a county is required to pay it on a refund?  
Answer: No. Thus, a county must be well versed on when interest should be paid.
2. Question: Is interest paid when a refund of delinquent taxes is made?  
Answer: No. The law states that no interest shall be allowed where the tax paid under protest was inclusive of delinquent taxes. (K.S.A. 79-2005(l)(2))
3. Question: Is interest paid on a refund of personal property penalties made because the Court of Tax Appeals abated the penalty on the basis of excusable neglect?  
Answer: No. See Board of Tax Appeals Docket No. 97-4953-TG, and the summary of the case in this memorandum.
4. Question: Is interest paid on (1) a payment under protest appeal or (2) an "equalization" appeal if the appeal is commenced *before* July 1, 1997?  
Answer: No. Specific language in K.S.A. 79-2005(l) provides that interest is only paid on refunds associated with valuation appeals that are *commenced after* the effective date of the new law: July 1, 1997.
5. Question: Is interest paid on a payment under protest when a refund is issued as the result of an informal meeting with the county appraiser?  
Answer: Yes, see the language in K.S.A. 79-2005(a).
6. Question: Can interest be reduced or eliminated?  
Answer: Yes, if the Kansas Court of Tax Appeals or a court of competent jurisdiction orders the interest reduced upon a finding that an unreasonable delay was caused by the taxpayer. (K.S.A. 79-2005(l)).
7. Question: Is interest paid when the Kansas Court of Tax Appeals orders a refund on an application for exemption case?  
Answer: No. K.S.A. 79-213, the law pertaining to exemption applications, was not amended to provide for the payment of interest. It should be noted that when an application for exemption is filed, the taxes normally due on December 20 and May 10 are not due until (and if) the Court of Tax Appeals issues a final order denying exemption. Then, the taxpayer has 30 days thereafter in which to pay the taxes, and no interest accrues on the year(s) in question. (K.S.A. 79-213 (i)).
8. Question: Is interest paid on a Court of Tax Appeals ordered refund of tax paid by a public utility when a proper appeal has been filed pursuant to K.S.A. 74-2438?  
Answer: No. An appeal filed pursuant to K.S.A. 74-2438 does not provide for any interest to be paid on any refunded tax. See Board of Tax Appeals Docket No. 2005-4083-PV in the matter of the appeal of Wheatland Electric Cooperative, Inc. from an order of the Director of Property Valuation.

#### Delinquent Tax Interest

K.S.A. 79-2004 (real property), K.S.A. 79-2004a (personal property): County collects interest when taxpayer fails to pay their property taxes by the December 20<sup>th</sup> and May 10<sup>th</sup> deadlines. K.S.A. 79-2968 prescribes the interest rate thereto, plus two percentage points.

2001	12%
2002	10%
2003 (corrected 8/2003)	<del>8%</del> 9%
2004	8%
2005	7%
2006	9%
2007	11%
2008	11%
2009	8%
2010	7%
2011	7%

#### Payment Under Protest and Equalization Appeals

K.S.A. 79-2005: Interest on refunds for protested and equalization appeals. Applies only for those appeals filed on July 1, 1997 and thereafter. Note: No interest is paid by county on refund on delinquent protested tax. K.S.A. 79-2968 prescribes the interest rate thereto, minus two percentage points.

2001	8%
2002	6%
2003 (corrected 8/1/2003)	<del>4%</del> 5%
2004	4%
2005	3%
2006	5%
2007	7%
2008	7%
2009	4%
2010	3%
2011	3%

#### Tax Grievance / Clerical Error Refunds ordered by BOTB

K.S.A. 79-1702: The Court of Tax Appeals does not specifically order interest to be paid on an ordered refund, therefore, the county must know when interest should be paid. K.S.A. 79-2968 prescribes the interest rate thereto, minus two percentage points.

2001	8%
2002	6%
2003 (corrected 8/1/2003)	<del>4%</del> 5%
2004	4%
2005	3%
2006	5%
2007	7%
2008	7%
2009	4%
2010	3%
2011	3%

#### Clerical Error Refunds ordered by the County Commissioners

K.S.A. 79-1701a: When the County Commissioners direct a clerical error refund, the amount of the overpayment will include interest at the rate prescribed by K.S.A. 79-2968, from the date of payment and from tax moneys collected during the current year.

2001	10%
2002	8%
2003 (corrected 8/1/2003)	<del>6%</del> 7%
2004	6%
2005	5%
2006	7%
2007	9%
2008	9%
2009	6%
2010	5%
2011	5%

**Computation of Rates of Delinquency  
2008 Taxes**

Taxing District	Fund	Adjusted Roll	Amount Unpaid	% Unpaid
Shawnee County	General	\$ 59,600,930.41	\$ 1,986,066.80	3.332%
	Specials	\$ 4,289,576.00	\$ 462,610.91	10.785%
Metro Airport	General	\$ 1,923,668.94	\$ 64,101.96	3.332%
City of Topeka	General	\$ 12,029,549.29	\$ 486,134.36	4.041%
	Bond & Interest	\$ 12,783,625.22	\$ 516,607.82	4.041%
	Specials	\$ 1,729,087.84	\$ 326,648.92	18.891%
Metro Transit	General	\$ 3,057,064.63	\$ 123,541.16	4.041%
Washburn U.	Capital Outlay	\$ 3,057,064.64	\$ 123,541.13	4.041%
Topeka Sn Co Library	General	\$ 9,675,122.73	\$ 324,444.66	3.353%
	Bond & Interest	\$ 1,420,402.80	\$ 47,631.62	3.353%
City of Auburn	General	\$ 110,932.44	\$ 3,522.89	3.176%
	Specials	\$ 29,695.05	\$ -	0.000%
City of Rossville	General	\$ 147,385.22	\$ 4,975.44	3.376%
	Specials	\$ -	\$ -	0.000%
City of Silver Lake	General	\$ 160,925.23	\$ 2,021.97	1.256%
City of Willard	General	\$ 2,175.63	\$ 42.00	1.930%
Kaw River Drain	General	\$ 19,336.53	\$ 287.64	1.488%
North Topeka Drain	General	\$ 217,212.12	\$ 8,112.51	3.735%
Rossville Drain	General	\$ 20,532.11	\$ 632.90	3.082%
Shunga Drain	General	\$ -	\$ -	0.000%
Silver Lake Drain	General	\$ 10,666.18	\$ 325.10	3.048%
Fire District #1	General	\$ 328,251.33	\$ 7,879.51	2.400%
Fire District #2	General	\$ 229,094.71	\$ 4,387.27	1.915%
Fire District #3	General	\$ 144,530.01	\$ 3,857.73	2.669%
Fire District #4	General	\$ 77,108.26	\$ 2,363.24	3.065%
Fire District #4-Indebt	Indebt	\$ 31,376.92	\$ 873.07	2.783%
Shawnee Heights Fire	General	\$ 1,181,318.11	\$ 19,269.56	1.631%

**Marla Morris**

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**From:** Richard.Cram@kdor.ks.gov  
**Sent:** Wednesday, March 16, 2011 9:54 AM  
**To:** Chris Courtwright; Marla Morris; Gordon Self; sean.tomb@budget.ks.gov  
**Subject:** Fiscal Note HB 2365  
**Attachments:** pic03093.jpg

----- Forwarded by Richard Cram/Revenue/KDOR on 03/16/2011 09:47 AM -----

2011 House Bill 2365b Fiscal Note  
Introduced as a House Bill

Fiscal Note Development

Bill Assigned: 02/28/2011

Responses Due: 03/02/2011

Note Due to Budget: 03/03/2011

Status: Sent to Budget

Prepared By: Steven R Brunkan

Preliminary Completed: 03/08/2011

Reviewed by P&R: 03/15/2011

Approved by Secretary: 03/16/2011

Sent to Budget: 03/16/2011

Fiscal Impact: \$16M total, \$8 M net (after refunds)

Administrative Impact: \$532,500

M E M O R A N D U M

To:  
Division of Budget

House Taxation  
Date: 3-16-11  
Attachment: 7

From: Kansas Department of Revenue

Date: 03/16/2011

Subject: House Bill 2365  
Introduced as a House Bill

#### Brief of Bill

House Bill 2365, as Introduced, imposes an excise tax on the transmission of money by money transmitters. The proposal would require the levying of an excise tax on certain wire money transfers. The rate of tax is \$15 for each transaction of \$500 or less, or 3% of any transaction in excess of \$500. Resident individuals charged the tax can apply for and receive a refund of the fee when filing their Kansas income tax each year. The bill limits the excise tax to money transmitters who are not: banks, federal, state and local governments, US Post Office, electronic transfers of governmental benefits for a federal, state, county or governmental agency by a contractor on behalf of the government agency, board of trade designated a contract market under the federal commodity exchange act, registered futures commission merchants under federal commodities laws, a person that provides clearance or settlement services as registered clearing agency under federal securities laws, operators of a payment system providing services between or among persons excluded and securities broker-dealers under federal or state securities laws.

The bill requires the money transmitters to electronically report the excise tax monthly and for the department to report to the state bank commissioner any transmitter that has not filed a monthly report for more than 60 days. The bill includes the provisions of several sales tax statutes that concern processing and collection activities.

Section 3 of the bill creates drug money laundering and public safety fee fund, in which receipts of the excise tax are to be deposited. The Kansas Bureau of Investigation shall administer the fund to support certain purposes.

Section 5 amends K.S.A. 79-3234 to allow the Department of Revenue to share information concerning the money transmitter excise tax with the banking commissioner for the purposes of administering the tax.

The Act would be effective July 1, 2011.

#### Fiscal Impact

The proposal is estimated to generate \$16 million annually with \$8 million of that refunded back to individuals through their income tax returns. The estimate has been provided by the Kansas Bureau of Investigation; they have advised it is based on data from a similar tax recently enacted in Oklahoma.

#### Administrative Impact

The costs to implement and administer the tax is estimated at \$532,500. To administer the wire transmitter tax will require the development of a tax processing system as well as making modifications to the income tax system for the processing of the refund. Programming costs are estimated at \$285,000 for 9,500 hours of effort, which includes designing and programming the processes for accepting the tax returns and remittances and processing them through our tax system. This includes making changes to tax collection systems to enable

collection activities and to the income tax processing system to enable the collection of the refund request and processing of those requests. Processing of the returns, testing of the new and revised computer systems has been estimated at \$247,500, which includes two new FTE for processing of the income tax refunds and processing/testing of the new tax system. The reoccurring costs of this bill are estimated at \$130,000 for staffing, form changes, and programming changes to the income tax system to facilitate the refund process.

#### Administrative Problems and Comments

The proposal requires the department to create a processing environment for the wire transfer fee. As the banking commission is responsible for many of the processing tasks, it is suggested the bill be amended to limit the department of revenue involvement to receiving the returns and payments and passing that information on to the banking commission. This would significantly lower the administrative costs.

The department suggests one-time and ongoing costs for the tax be paid out of the revenue collected from the wire transfer tax. Based on the current proposal, it is suggested the proposal be amended to include language that the department retain 10% of the tax until the one-time costs of \$532,500 are paid and on an ongoing fiscal year basis, the department retain 0.8% of the tax to pay for the costs of administering the tax.

If it is determined to continue with the current proposal, the department requests the implementation be delayed by at least six months, to January 1, 2012 to allow for the development of the processing system.

#### Taxpayer/Customer Impact

The wire transfer tax will be imposed on certain wire transfers and then resident individuals paying the tax can receive a full refund of the tax when filing their income tax return. The tax that is unclaimed will be used to fund law enforcement programs. It is questionable tax policy to first impose an excise tax on an activity and then provide a mechanism to return the full amount of that tax back to the payor if a refund claim is later filed. Why impose the tax in the first place? Creating a funding stream based on the assumption that not everyone entitled to claim a refund will go to the trouble to do so also seems questionable as good public policy.

#### Legal Impact

#### Approved By:

(Embedded image moved to file: pic03093.jpg) Nick Jordan Secretary of Revenue





## Kansas Bureau of Investigation

Robert E. Blecha  
*Director*

Derek Schmidt  
*Attorney General*

**Testimony Regarding HB 2365  
Before the House Committee on Taxation  
David Hutchings, Special Agent in Charge  
Kansas Bureau of Investigation  
March 16, 2011**

Chairman Carlson and Members of the Committee,

I appear today on behalf of the Kansas Bureau of Investigation (KBI) providing enthusiastic support for House Bill 2365.

This bill would assess a 3% fee for the transmitting of money by wire services. Most legitimate funds today move by bank transfers or by internet services such as PayPal. These services would not be addressed by this bill. Individuals filing Kansas income tax returns would be allowed to request a return of any fees assessed during the prior year. This would allow those funds that are illegitimate to be targeted with the fees, the revenue from which would be dedicated to supporting public safety programs at no cost to taxpaying Kansans.

There is significant anecdotal information that illegal money is moving by wire transfer. It is not uncommon when investigating a drug trafficking organization to find receipts for money that has been sent in this fashion. It is also clear that significant dollars are being transferred out of Kansas by this method. Since these funds are not spent here, Kansas recognizes no sales tax revenues. Again, because this bill allows taxpayers the return of their fees, the funds targeted are arguably illegal funds.

In 2009, Oklahoma passed similar legislation and collected 7.7 million dollars in the first year to support public safety programs. Oklahoma has seen no significant public backlash for the fees, nor has the state seen a diminished usage of the wire transmitters for moving money. In fact, usage of wire transmission in Oklahoma increased during the 5<sup>th</sup> quarter after the program was enacted.

It is important that you know what this source of revenue could mean to Kansans in general and to public safety specifically. The KBI provides support to all Kansas law enforcement agencies and coordinates with federal agencies. When there has been a recognized need for new services supporting public safety agencies, the KBI has accepted the call. We began as an agency assisting local agencies in the investigation of significant and inter-jurisdictional crimes in 1939. The support for the creation of the KBI came from Kansas bankers, Kansas ranchers, and from the insurance industry. Since then we have been assigned the additional roles of maintaining crime information and conducting forensic examinations.

Our Information Services Division maintains the criminal records central repository that contains all arrest and conviction data. It also maintains the databases for crime reports, registered offenders, known and suspect fingerprints, and missing persons.

House Taxation  
Date: 3-16-11  
Attachment: 8



**HOUSE COMMITTEE ON TAXATION**  
**March 16, 2011**

Mr. Chairman and Members of the Committee:

My name is Judi Stork. I am the Deputy Bank Commissioner for the Office of the State Bank Commissioner. Our agency is charged with supervising banks, trust companies, mortgage companies, and a variety of other entities, including money transmitter companies. For your information and background, we currently license 54 money transmitters in Kansas. These companies range in size from a small, one location business in Wichita, to firms such as Western Union, PayPal or Google. Western Union for example, operates in all 50 states, two US territories, and has 689 agents within Kansas.

A company must meet the following three requirements to obtain a license:

- 1) The net worth of such person shall be at all times not less than \$250,000;
- 2) Such person shall keep on deposit at all times cash or securities satisfactory to the commissioner in an amount not less than \$200,000. In lieu of the deposit of cash or securities, such person may give a surety bond in an amount equal to that required for the deposit of cash or securities; and
- 3) Such person shall submit a list to the Commissioner of the names and addresses of other persons who are authorized to act as selling agents for transactions with Kansas residents.

I am here today to ensure our agency has the ability to implement the legislation that may be passed. In that regard, I have five amendments to the proposed substitute bill I would like to offer at this time.

The first requested amendment addresses what the secretary of revenue will provide to the Office of the State Bank Commissioner. As proposed below, we would request the removal of the mandatory monthly reporting requirement. A list of compliant entities would best serve the Commissioner in carrying out this provision. The proposed amendments are noted below:

New Section 1. (page 2)

(e) The secretary of revenue:

(1) Shall send provide the state bank commissioner ~~copies of all monthly reports filed by a money transmitter by wire as provided in subsection (b)~~ a list on a

**House Taxation**

Date: 3-16-11

Attachment: 9

monthly basis of those entities that have filed reports and returns pursuant to subsection (c);

The second requested amendment would give the Bank Commissioner the ability to assess a civil penalty if a money transmitter by wire fails to file the required report or return with the secretary of revenue. Thus, there would be a penalty for a money transmitter by wire who has conducted \$0 of wire transfers, but has failed to file the required report or return with the secretary of revenue. The proposed amendment is noted below:

New Section 1. (page 2)

(f) The commissioner may:

(1) Assess a civil penalty for failure to file the required report or return with the secretary of revenue, and/or the nonpayment of excise taxes as provided in this act to be paid to the drug money laundering and public safety fee fund less the amount to be paid to the commissioner for staff time and any costs of enforcement.

The third requested amendment would be to correct an inaccurate cross-reference. The proposed amendment is noted below:

New Section 3. (page 4)

(a) There is hereby established in the state treasury the drug money laundering and public safety fee fund which shall be administered by the Kansas bureau of investigation. All money transmitter by wire excise tax moneys collected by the director of taxation under the provisions of this act shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, except as provided in subsection (c). Upon receipt of such remittance the state treasurer shall deposit the entire amount in the state treasury to the credit of the drug money laundering and public safety fee fund. All expenditures from the drug money laundering and public safety fee fund shall be for the purpose of supporting the Kansas bureau of investigation forensic laboratory construction project, the Kansas bureau of investigation salary and equipment improvement initiative, special public safety programs of the Kansas bureau of investigation approved by the attorney general and for the reimbursement of excise taxes paid by customers pursuant to ~~K.S.A. 9-509, and amendments thereto~~ New Section 1.

The fourth requested amendment would expand the types of financial institutions excluded from the definition of money transmitter by wire, to be consistent with the exemptions identified in K.S.A. 9-511. The proposed amendment is noted below:

Sec. 4. (page 7)

(j) "money transmitter by wire" means any person receiving payment for the service of sending money to another location or person. Money transmitter by wire shall not include:

...

(4) a bank, building and loan association, savings and loan association, savings bank or credit union organized under the laws of and subject to the supervision of this state, another state, or the United States;

The fifth requested amendment would be to expressly include the reference to outstanding "excise taxes" for purposes of surety bond coverage. The proposed amendment is noted below:

Section 5. Amending K.S.A. 9-509(b)(3). (page 9)

(B) the payment of any expenses, penalties, fees, excise taxes or refunds levied by the commissioner or that become lawfully due pursuant to a final judgment or order.

Thank you for the opportunity to appear before the Committee. I would be happy to answer any questions.

TO: The Honorable Richard Carlson, Chairman  
House Taxation Committee

FROM: William W. Sneed, Legislative Counsel  
Western Union

SUBJECT: H.B. 2365

DATE: March 16, 2011

Mr. Chairman, Members of the Committee: Good Afternoon. My name is Bill Sneed and I am here on behalf of Western Union and the nearly 400 Agent locations here in Kansas to express our utmost opposition to House Bill 2365, which would impose a \$15.00 minimum excise tax on all wire transfer less than \$500 and a 3% excise tax on all transfers in excess of \$500.00.

To fully understand the impact of such an onerous and discriminatory tax, please allow me to first talk about what happened in Oklahoma, which is the only state that has implemented a wire transfer tax. In 2009, Oklahoma began collecting a \$5.00 minimum fee on wire transfers less than \$500.00; wire transfers in excess of \$500 would be charged a fee equivalent to 1% of the principal being remitted. Since this fee was implemented, Western Union transaction volume has declined approximately 25%. Should Kansas pass a wire transfer tax, we anticipate that transaction volume in Kansas would decline at least as much as it did in Oklahoma, if not more. This decline is problematic for small business owners in Kansas who serve as Western Union Agents and it also presents real challenges to our national security.

Western Union Agents are not employed by Western Union, nor does Western Union own the Agent's store or location. Agents are typically small business owners who offer Western Union products as part of their business operations. In Kansas, you will see Western Union services offered at familiar retail outlets such as Dillion's, Homeland, K-Mart, 7-Eleven, US Bank and Check into Cash, among many others. There's even a Western Union Agent location at the McConnell Air Force Base Exchange that allows our military personnel to conveniently send money to their loved ones.

House Bill 2365 would have a significant economic impact on these local Kansas business owners who are already struggling to recover from the economic recession. Western Union Agents receive a commission on every transaction sent or received from their retail outlet. Consequently, if transaction volume in Kansas declines, local business owners who offer Western Union money transfers will see a decline in the revenue they earn from offering this service. While this proposed excise tax is intended to be levied on the consumer, who can claim a tax credit for it if they have tax liability in Kansas, it is these small businesses that will suffer from lost revenue – revenue that they cannot recover as a tax credit.

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House Taxation

Date: 3-16-11

Attachment: 10

The Honorable Richard Carlson, Chairman  
House Taxation Committee  
March 16, 2011  
Page 2

Western Union customers rely on our service because they need to get money to friends or loved ones in need. Some of our customers send money to their families to help provide for basic necessities, such as food, medicine and education; other customers rely on Western Union to send money to their kids who are away at college or living outside the home; our military personnel and their families at McConnell AFB use Western Union to keep them financially connected to their family and friends; and other customers send money through Western Union because a loved one has an emergency and needs immediate financial assistance. Whatever the reason for sending a wire transfer, our customers rely on Western Union because of our speed, reliability and affordability. These customers are already subject to state income taxes, local property taxes and sales taxes. I ask the committee to justify why should they be subject to an additional government imposed fee for simply needing to send money to a loved in a time of need.

Customers in Kansas have multiple options when needing to wire money. In fact, approximately 65% of our US customers have established bank accounts, and yet choose Western Union because of our convenience, speed, cost and reliability. Western Union welcomes competition in the wire transfer industry as it results in lower prices for all customers. Yet, House Bill 2365 does not encourage competition and is in fact anti-competitive. Banks and credit unions are becoming strong competitors in the remittance industry. Charging an excise tax on the customers of money transmitters, but not the customers at banks or credit union who are remitting money, is anti-competitive, giving banks and credit unions an unfair advantage in the money transfer industry and places small business owners who are Western Union agents at an even further competitive disadvantage.

Increasing the cost of wire transfers does not only impose an additional economic burden on Kansas, but it also threatens the security and safety of our nation. Formal money transmitters such as Western Union provide customers with a safe, reliable and affordable way for remitters to get money to their family or friends in need. By increasing the cost of sending wire transfers through regulated, formal networks, more people will be driven to informal or underground networks, which are unregulated and unmonitored.

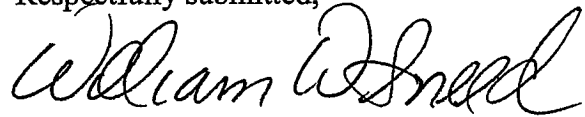
Formal networks, such as Western Union, are subject to strict anti-terrorism and anti-money laundering laws and regulations. Western Union is licensed in Kansas by the Office of the State Bank Commissioner. Western Union works with law enforcement at all levels to prevent illegal or criminal activities from being facilitated by our network. Informal or underground networks are not regulated are not subject to these same security standards. Therefore, informal or underground networks could potentially lead to increased terrorist activity, drug trafficking and human trafficking.

I encourage the committee to oppose House Bill 2365. This bill will only put an increased economic burden on the citizens of Kansas and our small businesses while also potentially threatening the safety and security of our state and nation.

The Honorable Richard Carlson, Chairman  
House Taxation Committee  
March 16, 2011  
Page 3

Thank you for your time and consideration. I look forward to answering any questions the Committee may have.

Respectfully submitted,

  
William W. Sneed

WWS:kjb



Pat Hubbell Associates, Inc.  
800 Jackson, Suite 914  
Topeka, KS 66612-2214

HB 2365

4

1 institution, either domestic or foreign;

2 (3) bills of exchange or time drafts drawn on and accepted by a  
3 commercial bank, otherwise known as bankers' acceptances, which are  
4 eligible for purchase by member banks of the federal reserve system;

5 (4) any investment bearing a rating of one of the three highest grades  
6 as defined by a nationally recognized organization that rates such  
7 securities;

8 (5) investment securities that are obligations of the United States, its  
9 agencies or instrumentalities, or obligations that are guaranteed fully as to  
10 principal and interest of the United States, or any general obligations of  
11 any state, municipality or any political subdivision thereof;

12 (6) shares in a money market mutual fund, interest-bearing bills, or  
13 notes or bonds, debentures or stock traded on any national securities  
14 exchange or on a national over-the-counter market, or mutual funds  
15 primarily composed of such securities or a fund composed of one or more  
16 permissible investments as set forth herein;

17 (7) any demand borrowing agreement or agreements made to a  
18 corporation or a subsidiary of a corporation whose capital stock is listed  
19 on a national exchange;

20 (8) receivables which are due to a licensee from its authorized  
21 agents pursuant to a contract, which are not past due or doubtful of  
22 collection; or

23 (9) any other investment or security device approved by the  
24 commissioner;

25 (h) "person" means any individual, partnership, association, joint-  
26 stock association, trust, corporation or any other form of business  
27 enterprise authorized to do business in this state; and

28 (i) "stored value" means monetary value that is evidenced by an  
29 electronic record; and

30 (j) "*money transmitter by wire*" means any person receiving  
31 payment for the service of sending or receiving money from another  
32 location or person. *Money transmitter by wire shall not include:*

33 (1) *The United States or a department, agency or instrumentality*  
34 *thereof;*

35 (2) *money transmission by the United States postal service or by a*  
36 *contractor on behalf of the United States postal service;*

37 (3) *a state, county, city or any other governmental agency or*  
38 *governmental subdivision of a State;*

39 (4) ~~*a bank;*~~ *financial institutions, their affiliates or subsidiaries;*

40 (5) *electronic funds transfer of governmental benefits for a federal,*  
41 *state, county or governmental agency by a contractor on behalf of the*  
42 *United States or a department, agency or instrumentality thereof, or a*  
43 *state or governmental subdivision, agency or instrumentality thereof;*



STATE OF KANSAS

**STAN FROWNFELTER**

REPRESENTATIVE, 31ST DISTRICT

WYANDOTTE COUNTY

4527 GIBBS ROAD

KANSAS CITY, KANSAS 66106

(913) 262-~~9000~~ 7648

STATE CAPITOL

TOPEKA, KANSAS 66612

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TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: CORRECTIONS AND JUVENILE  
JUSTICE  
TAXATION  
TRANSPORTATION AND PUBLIC  
SAFETY BUDGET

Chairman Carlson and Members of the committee. I am before the committee today to present HB 2365. The intent of this legislation is to capture a portion of the income leaving the state of Kansas by way of wire transfers. This legislation by no means seeks to impact the business of banks, credit unions, and other financial institutions in the State of Kansas. The goal of HB 2365 is to establish a fee structure for capturing revenue flowing out of the State of Kansas. The fee structure would amount to collecting \$15.00 of wire transfers up to \$500.00 and 3% of wire transfers on amounts between \$501.00 and \$3000.00. The State can expect to receive somewhere in the area of \$16-\$18 million. Kansas residents who use wire transfers will have to ability to have this fee returned to them. After returning the fee to Kansas residents the state will net \$8-\$9 million a year. These funds will be collected into a separate account used to finance law enforcement projects. The first receipts will be used to bond a new lab for the KBI. The cost of this lab will be around \$60 million dollars. A 20 year bond of this type will run about \$4.4 million per year. The goal of this project is to pay off the bond in ten years. The fund could then be used to shore up our prison system which could use it to enhance security and monitoring capabilities.

Example: Workers are coming to Kansas to work at XYZ Company from California, Michigan, and Georgia. Because they have less than 3 years left to retire they are not uprooting their families. Instead they are joining together like college kids and living 3-4 in apartments, trailers, and extended stay motels. Rather than spending these funds here in Kansas they wire transfer the majority of their Kansas earnings back to these states where the money will be spent. During this recession we need citizens of

House Taxation

Date: 3-16-11

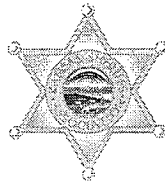
Attachment: 12

others states to move here and become part of our communities, to spend the money in our cities not send it out of state. This is an example of a common sense solution that will enable the State of Kansas to emerge from this recession sooner.



**Kansas Association of  
Chiefs of Police**

PO Box 780603  
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(316)733-7301



**Kansas Sheriffs  
Association**

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Salina, KS 67402  
(785)827-2222



**Kansas Peace Officers  
Association**

PO Box 2592  
Wichita, KS 67201  
(316)722-8433

**Testimony to the House Taxation Committee  
In Support of HB2365**

March 16, 2011

Chairperson Carlson and Committee Members,

The Kansas Association of Chiefs of Police, the Kansas Sheriffs Association, and the Kansas Peace Officers Association support HB2365. We know through many investigations that wire transfers are a common method of transfer of funds gained through drug distribution and other criminal activities. This bill mirrors the law in Oklahoma. Any method we can use to diminish the profits of criminal activity is worthy of strong consideration. But more importantly it uses those funds to financially support law enforcement efforts to detect and prosecute criminals.

We have testified in several committees this year about the ongoing diminished ability of the KBI to support local law enforcement. This funding source is designed to be directed toward KBI functions that directly support local law enforcement efforts. The backlog in the KBI laboratories is one of the areas needing financial help. Local crime investigations often must depend on the KBI laboratories to help identify suspects and to develop evidence to assure the accuracy of suspect identification. When lab test results are delayed for 5-6 months or more it means a criminal may remain on the street longer before they can be identified. During this time they are free to commit more crimes creating more victimization and more loss to Kansans and Kansas businesses.

Our associations have not been involved in the development of the details or processes contained in this bill. But we are confident in the work by the people developing this bill. Key to our support of this bill is the inclusion of a process for law abiding people using wire transfers to have their money returned. A second key point is our knowledge that not many people not exempted by the definition on page 4, line 30 through page 5, line 18 use the wire transfer methods included in this bill for legitimate purposes. Most people today use ATM cards or bank transfers for their legitimate fund movement needs. Activities exempted from the bill.

Most important to us is the ability to enhance the funding for KBI functions that directly support local law enforcement efforts. This equates directly to enhanced public safety affecting every county and every community in Kansas.

We respectfully request the committee to support public safety by passing this bill favorably with the provisions necessary to negatively impact movement of illegally gained money and positively impacting the funding of improved availability and timeliness of critical KBI law enforcement support operations.

Ed Klumpp  
Kansas Association of Chiefs of Police, Legislative Committee Chair  
Kansas Sheriffs Association, Legislative Liaison  
Kansas Peace Officers Association, Legislative Liaison  
E-mail: eklumpp@cox.net

**House Taxation**  
Date: 3-16-11  
Attachment: 13

**Before the House Taxation Committee  
Michael R. Murray on behalf of the  
Kansas Food Dealers Association and the Retail Grocers Association of Greater Kansas City  
HB 2365  
Wednesday, March 16, 2011**

**Written Only**

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify on HB 2365 which would impose an excise tax on wire transfers of money both inside and outside the United States.

The Kansas Food Dealers Association (KFDA) and the Retail Grocers Association of Greater Kansas City (RGA) represent over 500 retail grocers across the State of Kansas.

The KFDA and the RGA have no objection to an excise tax on such wire transfers which are going outside of the United States. However, **the KFDA and the RGA strongly disagree with imposing such a tax on wire transfers inside America.**

Some of the customers which grocery and convenience stores serve use such wire transfers to send money to family members. Many of these people don't have checking accounts. Wiring money may be the only way they have of sending money to family members in need who may be in other parts of the country. And, there is already a fee associated with making such a transaction.

**HB 2365 would impose a significant tax on people who can least afford it.**

**Respectfully, the KFDA and the RGA ask that the Committee make HB 2365 apply only to wire transfers outside of the United States.**

**Otherwise, we ask that the Committee vote NO on HB 2365.**

House Taxation  
Date: 3-16-11  
Attachment: 14