

March 13, 2019

The Honorable Steven Johnson, Chairperson
House Committee on Taxation
Statehouse, Room 185-N
Topeka, Kansas 66612

Dear Representative Johnson:

SUBJECT: Fiscal Note for HB 2285 by Representative Capps

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2285 is respectfully submitted to your committee.

HB 2285 would establish the Kansas Legal Tender Act that would allow specie to be used as legal tender in Kansas. Specie is defined as coins having gold and silver content or certain gold and silver bullion that is coined, stamped, or imprinted with its weight and purity. Specie legal tender in Kansas would consist of specie coins issued by the federal government or any other specie designated as legal tender by a court order. The bill does not allow specie or legal tender to be characterized as personal property for taxation or regulatory purposes. The exchange of one type or form of legal tender for another type or form of legal tender would not be a taxable event. The bill would not allow someone to compel another person to accept gold and silver coins in payment. The Attorney General would be required to enforce the Act without prejudice to any private right of action and the Kansas courts would require specific performance as a remedy for breach of any contract designating a type or form of specie as tender.

Calculations for Kansas income taxes are based on the Kansas adjusted gross income, which is calculated by adding or subtracting certain types of income from the amount of federal adjusted gross income. The bill would allow a subtraction modification for any capital gain from the sale of specie. The subtraction modification would be available to taxpayers beginning in tax year 2019. The bill would also provide a retail sales tax exemption for all sales of specie.

The Department of Revenue indicates HB 2285 would decrease State General Fund and State Highway Fund revenues beginning in FY 2020. The Department indicates that the sales tax exemption for all sales of specie would reduce sales tax collection by a negligible amount, which would reduce revenues to the State General Fund, State Highway Fund, and to local governments that impose a local sales tax. The Department of Revenue does not have data to make a precise estimate for the subtraction modification for any capital gain from the sale of specie that would reduce State General Fund revenues by an unknown amount.

The Department of Revenue indicates that it would require a total \$258,195 from the State General Fund in FY 2020 to implement the bill and to modify the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue and outside contract programmer services. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Attorney General's Office indicates that the bill gives it the authority to enforce the Act, but it is unclear what type of enforcement action would be needed. Therefore, the Office is unable to provide an estimate of the potential fiscal effect of this provision. The Office of Judicial Administration indicates the bill is not expected to have a significant fiscal effect on expenditures for the Judicial Branch. Any fiscal effect associated with HB 2285 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is fluid and cursive, with the first name "L." and the last name "Campbell" clearly visible.

Larry L. Campbell
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Ben Cleaves, Transportation
Chardae Caine, League of Municipalities
Jay Hall, Association of Counties
Janie Harris, Judiciary
Willie Prescott, Office of the Attorney General
Colleen Becker, Department of Administration