

February 17, 2025

The Honorable Nick Hoheisel
Chair of the Committee on Financial Institutions and Pensions
Kansas State Capitol, Hearing Room 582-N
300 SW 10th St, Topeka, KS 66612

Re: Money Transmission Industry Opposition to Kansas HB 2337

Dear Chair Hoheisel, Vice Chair Stiens, Ranking Minority Member Xu, and Distinguished Members of the Committee,

On behalf the Electronic Transactions Association (ETA), the Money Services Business Association (MSBA), The Money Services Round Table (TMSRT), and the Financial Technology Association (FTA) we write to urge the Kansas legislature to not adopt HB 2337.

Summary of Tax Legislation

HB 2237, if enacted in its current form, would impose a tax of \$7.50 on a customer for each “international transaction” conducted by a “money transmitter by wire, as defined in K.S.A. 2024 Supp. 9-555, in the amount of \$500 or less. For any such “international transaction” in excess of \$500, a “money transmitter by wire” would be required to collect a tax of 1.5% of the transaction amount.¹ The legislation does not cap the amount of the tax.²

HB 2237 would amend the Kansas money transmission act (the “Act”) to add a new definition of a “money transmitter by wire,” which would be “any person receiving payment for the service of sending or receiving money from another location or person.” This definition would be in addition to, and would conflict with, existing definitions of “money transmission” and “receiving money for transmission” under the Act.

Finally, HB 2337 also would purport to criminalize the transmission of a wire transfer, which would include sending or receiving a wire transfer or depositing money in a financial institution for the purpose of sending a wire transfer, by a “person who is not a United States citizen or an alien who is lawfully present in the United States.”

Reasons for Opposition to Tax Legislation

For the reasons described herein, we oppose HB 2337. The legislation would impose a significant burden on Kansas customers and businesses, and would favor some types of financial institutions (such as large banks) over others. It would harm law enforcement efforts to combat money laundering and other illicit activity. It would disrupt the harmonization of regulation of money transmission in Kansas and other states by adding different and conflicting definitions of regulated activity and covered persons. And it would unconstitutionally seek to impose criminal liability on certain persons for some types of transactions.

¹ The tax does not appear to apply to domestic funds transfers, though it is not clear if it would apply (or could be interpreted to apply) to *inbound* funds transfers to a U.S.-located recipient.

² Customers could potentially obtain a tax credit the following year, subject to certain conditions.

- **It favors other financial institutions.** The tax would be imposed only on licensed money transmitters and not on other financial institutions such as banks in Kansas that provide similar services involving “international transactions” (which we assume to mean cross-border funds transfer services). Typically, funds transfer services provided by banks—if available at all—are more expensive, less convenient, and slower. A major tax on the use of nonbank money transmission services will operate as a *de facto* subsidy for banks by making their services relatively more price-competitive with money transmission services.
- **It will harm local businesses.** Many licensed money transmitters offer services through a network of retail agent locations such as convenience stores, grocers, pharmacies, and other small businesses. The tax will make money transfer services offered through Kansas businesses more expensive and discourage the use of these services. These businesses will lose direct revenues associated with providing these services as customers turn to alternatives, such as banks, for these needs. They will also lose revenue from the drop in foot traffic as customers seek alternatives for funds transfer services.

Additionally, Kansas businesses that rely on licensed money transmission companies for their payments needs will face added costs in paying suppliers and others, which will make a challenging business climate even more difficult. Businesses, particularly small businesses, frequently use bill pay services and other providers licensed as money transmitters to pay suppliers, domestically and internationally. The imposition of an uncapped tax of 1.5% per cross-border payment could potentially result in Kansas businesses facing a massive tax increase based on long-standing business practices. Furthermore, as discussed below, given that corporations and other legal entities are not necessarily considered “citizens” of the United States, it is possible that the legislation would effectively ban legal entities in Kansas from using money transmission services.

- **It will harm consumers.** The tax would significantly increase the cost of money transmission services for Kansas residents. Individual customers will be harmed by the burden of an added cost of sending money to family or friends. And customers that use money transmission services to make high-dollar transfers, such as to pay for college abroad, will face exorbitant taxes. In all, like any substantial tax increase, HB 2337 will significantly erode the spending power of Kansas residents.³
- **It can harm law enforcement efforts to prevent and detect money laundering.** The tax risks distorting customer behaviors as Kansas residents seek to mitigate its impact. It may therefore also harm law enforcement efforts to prevent and detect money laundering.⁴ The costs imposed by the new tax may encourage Kansas residents to turn to unregulated and unmonitored channels to transmit their money. Licensed money

³ The ability to obtain a tax credit up to 15 months later does not materially mitigate this tax burden. Evidence from other states suggests that eligible consumers may not receive the tax credits for which they are eligible. In Oklahoma, which is the only U.S. state that has imposed a tax on money transmission transactions, consumers failed to claim 99.6% of tax credits on remittance taxes paid.

⁴ In Louisiana, where a similar remittance tax was proposed (but not passed), the fiscal note warned that “[i]t is also possible that a tax levy may induce some money transmission to attempt to circumvent the currently licensed network and mechanisms . . .” See MONIQUE APPEANING, LA. LEGIS. FISCAL OFFICE, HB 539 (2021) FISCAL NOTE (2021).

transmitters are subject to extensive oversight by state and federal authorities, and must comply with detailed transaction recordkeeping and reporting requirements, as well as strict anti-terrorism and anti-money laundering laws and regulations. In fact, the Federal Bureau of Investigation recently released an alert warning Americans to avoid using money transmitting services which are not registered as Money Services Businesses.⁵ Any international remittance tax could hamper law enforcement's efforts to counter crime, money laundering, and foreign terrorism funding by changing customer behaviors and shifting activity away from licensed and regulated money transmitters.

- **It disrupts efforts to harmonize money transmission regulation.** The Conference of State Bank Supervisors (“CSBS”) has undertaken efforts to harmonize regulation of money transmitters based on a single set of nationwide standards and requirements known as the “Model Money Transmission Modernization Act.” Statutory and regulatory harmonization on a state-by-state basis can enable more consistent oversight and regulation of money transmitters by state banking departments. The CSBS model language does not include taxes on money transmission services or quarterly reporting requirements relating to a tax levied on money transmission. Indeed, Kansas enacted a new money transmission law based on the CSBS model language that just took effect on January 1, 2025, that harmonizes the definitions of regulated activity in Kansas with other states. The proposed definition of a “money transmitter by wire” is non-standard, is not part of the model language, and conflicts with existing definitions of money transmission in the Act. In addition, an “international transaction” is not a defined term and it is not clear if, among other things, the legislation would purport to cover inbound payments to payees located in the United States.
- **The criminal provisions are unworkable and likely unconstitutional.** HB 2337 would purport to make it unlawful for “a person who is not a United States citizen or an alien who is lawfully present in the United States” to engage in activities including “sending or receiving a wire transfer”, “depositing money in a financial institution for the purpose of sending a wire transfer,” or “withdrawing the proceeds of a wire transfer.” The attempt to criminalize this activity is almost certainly unconstitutional, and not least because it is extremely vague. First, it is not clear *who* is subject to the criminal prohibition—the “money transmitter by wire” itself, any business that provides money transmission services as an agent of a licensee (including enabling recipients to pick up funds transfers,” if it applies only to persons licensed under the Act or to other financial institutions (e.g., financial institutions in which a person deposits funds, as a licensed money transmitter—unlike a bank—cannot accept deposits), or any user of money transmission services. Second, as noted above, it is not clear if this legislation would effectively prohibit legal entities, which are not United States citizens, from using the services of licensed money transmitters or receiving inbound payments from licensed money transmitters. Third, as a related point, funds transfers originated abroad for receipt by Kansas residents would generally not be United States citizens or lawfully present in the United States (as they are not in the United States) and it is unclear if inbound payments to Kansas in general would therefore be prohibited.

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⁵ See FED. BUREAU OF INVESTIGATION, I-042524-PSA, ALERT ON CRYPTOCURRENCY MONEY SERVICES BUSINESSES (2024).

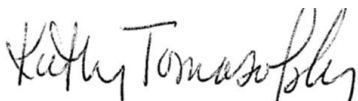
Licensed money transmitters provide consumers with a safe and reliable way to send money to family and friends, pay bills, and obtain other financial services. Those who use and benefit from these services—both directly and indirectly—will be harmed by this tax. Like any other significant tax increase, this tax will distort behaviors, depress consumption, and directly affect Kansas businesses and consumers.

In light of the extensive concerns discussed herein, we believe HB 2337 should not be adopted. We thank you for taking the time to consider these issues, and would be happy to discuss them further or address any questions you may have.

Respectfully submitted,



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