

February 14, 2012

The Honorable Tim Owens, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 559-S  
Topeka, Kansas 66612

Dear Senator Owens:

**SUBJECT:** Fiscal Note for SB 368 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 368 is respectfully submitted to your committee.

Under current law, offenders who are convicted of certain severity level three and four crimes may receive sentences of presumptive imprisonment. SB 368 would amend the sentencing drug grid so that offenders who are convicted of certain severity level three crimes could receive optional non-prison sentences, as specified by law. Offenders convicted of certain severity level four crimes would be eligible for sentences of presumptive probation.

The bill would also alter the custody placement of offenders based on drug abuse and criminal risk-need assessments. If an offender receives a high-risk drug abuse assessment and a moderate or high-risk criminal risk-need assessment, courts must commit the offender to a drug abuse treatment program. In this case, the offender would be supervised by community corrections. Offenders who receive low-risk drug abuse assessments would be placed on probation, where they would be supervised by community corrections or court services based on criminal risk assessment results.

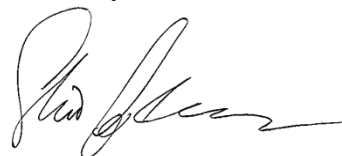
The Office of Judicial Administration estimates that SB 368 would require \$101,985 from the State General Fund for two new court officer positions. It is the Office's judgment that offenders who score low-risk on both the drug and risk-need assessments would likely be supervised by court services officers. Analysis by the Kansas Sentencing Commission indicates that the seven-year average of the number of low-risk offenders is 138 offenders. The current state-wide average caseload for court service officers is 68 offenders. If the seven-year average is used and the average caseload per officer is held constant for FY 2013, then the Office suggests two new court service officers would be needed (138 additional offenders/68 offenders per officer = 2 officers).

The Kansas Sentencing Commission believes the bill would increase the number of offenders who would be eligible for drug treatment under 2003 SB 123 by 202 offenders for FY 2013. This increase would require \$930,640 from the State General Fund and would include \$39,548 for assessment costs and \$891,092 for treatment costs. The Commission also estimates that passage of SB 698 would result in a decrease of 67 adult prison beds in FY 2013 and a decrease of 146 adult prison beds by FY 2022. Currently, the number of male inmates exceeds the available bed capacity of 8,369, and based upon the Kansas Sentencing Commission projections, it is estimated that at the end of FY 2012 and FY 2013, the number of male inmates will exceed available capacity by 335 beds and 453 beds, respectively. To address capacity issues, the Governor's budget includes \$3,896,150 to renovate and operate existing facilities in Labette County and an additional \$1.5 million to contract for prison beds (\$2.5 million was added last year for contract beds). If it is determined that additional facility construction is essential in the near-term, the Department of Corrections has identified a capacity expansion project at El Dorado Correctional Facility that includes building two new medium security housing units, which would provide a total of 512 beds. It is estimated that the new units would have a construction cost of \$22,320,329 and operating costs of \$8,184,231 (or \$43.79 per inmate per day).

Any near-term or long-term capacity needed beyond the options outlined above would require additional contract or construction costs. The actual construction costs would depend upon the security level of the beds to be constructed and when construction is actually undertaken, while the actual operating costs would depend upon the base salary amounts, fringe benefit rates, per meal costs, per capita health care costs, and other cost factors applicable at the time the additional capacity is occupied. Likewise, any further prison commitments that result in additional parolees could require additional staff and resources so that the additional parolees can be effectively supervised.

The fiscal effect on community corrections agencies is unclear at this time. The Department of Corrections disperses State General Fund grants to and provides oversight of state wide community corrections agencies. A request for information has been made to the Department; however, a response had not been received at the time this note was prepared. Any fiscal effect for community corrections programs identified by the agency will be incorporated and sent in a revised note. Any fiscal effect associated with SB 368 is not reflected in *The FY 2013 Governor's Budget Report*.

Sincerely,



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

cc: Jeremy Barclay, DOC  
Melissa Wangemann, KAC

Mary Rinehart, Judiciary  
Scott Schultz, Sentencing Commission