

January 28, 2013

The Honorable Jeff King, Chairperson
Senate Committee on Judiciary
Statehouse, Room 341-E
Topeka, Kansas 66612

Dear Senator King:

SUBJECT: Fiscal Note for SB 16 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 16 is respectfully submitted to your committee.

SB 16 would create the Kansas Racketeer Influenced and Corrupt Organization (RICO) Act. It would be unlawful to use any proceeds derived from a pattern of racketeering activity or the collection of unlawful debt to invest or acquire equity in any real property or in the establishment or operation of any enterprise or similar activities. The new crimes would be classified as a severity level 2, person felony.

Property used in the course of violating the RICO act would be subject to forfeiture. The bill would also exclude the new crimes from the special sentencing rule relating to conspiracy of crimes.

The Kansas Sentencing Commission estimates that passage of SB 16 would not result in an increase of adult prison beds needed in FY 2014. However, three different scenarios suggest that nine, 18, or 27 additional adult prison beds, respectively, could be needed by FY 2023. As of January 14, 2013, the available bed capacity is 9,564. Based upon the Commission's projections, it is estimated that by the end of FY 2014 and FY 2015 the number of inmates will exceed available capacity by 325 beds and 590 beds, respectively.

To address capacity issues, the Governor's budget includes additional funding of \$3.0 million (\$2.0 million in FY 2014 and another \$1.0 million in FY 2015) for community corrections treatment and supervision programs to reduce the number of probationers entering prison. It is expected that the added funds plus policy changes recommended by the Justice Reinvestment group will make 135 beds available in FY 2014 and 853 beds available in FY 2015. However, it is likely that continued projected population increases will also require construction of new cell houses at the El Dorado Correctional Facility. The project would include 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 approximately \$24.5

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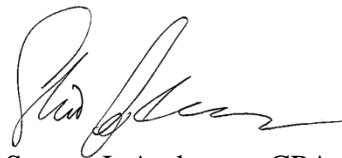
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million and operating costs of approximately \$8.4 million (or about \$45.00 per inmate per day). Presumably, bonding authority would be required in FY 2015 for the constructions costs with operations at the new cell houses beginning in FY 2016.

Should passage of the bill require capacity needed beyond the options outlined above, additional costs for contract beds or facility expansion would be incurred in the near term. 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 parolees could be effectively supervised.

The Office of Judicial Administration indicates that SB 16 could result in additional criminal charges being filed in district courts. While it is possible that the additional charges could result in additional cases, the Office notes that it is likely that most of the new criminal charges would be filed within existing cases. The bill could also result in additional asset forfeiture case filings. The additional cases would increase the time spent by district court and appellate court judicial and non-judicial personnel in processing, researching, and hearing cases. Likewise, the additional cases could also result in the collection of added revenue from docket fees and RICO fines. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources. Any fiscal effect associated with SB 16 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,



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

cc: Mary Rinehart, Judiciary
Scott Schultz, Sentencing Commission
Jeremy Barclay, Corrections