

March 21, 2016

The Honorable John Barker, Chairperson
House Committee on Judiciary
Statehouse, Room 519-N
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2638 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2638 is respectfully submitted to your committee.

HB 2638 would specify that when possession or control of property is seized from a person who has not been convicted of the conduct or offense that would result in forfeiture, the item seized would be returned to the person in the same condition as when it was seized. Existing provisions for handling of seized property when a person is convicted of an alleged offense would remain in place.

Under current law, an order of priority for distribution of forfeiture proceeds includes any court preserved security interest or lien; payment of expenses of the forfeiture and disposition proceedings, including court costs; reasonable attorney fees, including fees for county or district attorneys; and repayment of law enforcement funds expended in purchasing contraband or controlled substances. The remaining proceeds are distributed to various law enforcement agency funds. HB 2638 would eliminate this distribution and instead require that all proceeds be remitted to the State General Fund.

The Office of Judicial Administration indicates enactment of HB 2638 would not have a fiscal effect on Judicial Branch expenditures; however, the bill would have a fiscal effect on revenues. The provisions of HB 2638 would eliminate the current distribution of proceeds from sales of seized property. The Office states the proceeds would no longer be distributed for any court preserved security interest or lien or for payment of expenses of the forfeiture and disposition proceedings, including court costs.

The Attorney General states under current law, if the Attorney General handles a forfeiture action, the agency may keep up to 15.0 percent of the forfeiture proceeds to cover attorney fees. HB 2638 would require all forfeiture proceeds to be credited to the State General Fund. The agency states forfeiture proceeds are only a small amount of revenue for the agency.

The Honorable John Barker, Chairperson

March 21, 2016

Page 2—HB 2638

The Kansas Bureau of Investigation (KBI) indicates enactment of HB 2638 would eliminate forfeiture revenues to the agency and would require additional State General Fund expenditures of \$37,000 in FY 2017 because of the revenue reduction. The KBI's estimate is based on FY 2015 actual revenues of \$36,995.

The Kansas Highway Patrol states enactment of the bill would require an expenditure limitation increase on the Kansas Highway Patrol Operations Fund of up to \$250,000 in FY 2017, which would require a corresponding transfer of \$250,000 from the State Highway Fund of the Kansas Department of Transportation. The agency states forfeiture revenues are necessary for the Patrol to fulfill its mission.

The Division of the Budget notes that enactment of HB 2638 would increase revenues to the State General Fund; however, the Division is unable to estimate the total amount of additional revenue that would be generated. Any fiscal effect associated with HB 2638 is not reflected in *The FY 2017 Governor's Budget Report*.

The Kansas Association of Counties indicates enactment of HB 2638 would eliminate forfeiture revenues to counties; however, the Association is unable to estimate the total loss of revenue to counties.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Shelia Sawyer-Tyler, KBI
Kim Torrey, Highway Patrol
Ashley Michaelis, Judiciary
Jack Smith, Department of Revenue
Larry Baer, League of Municipalities
Melissa Wangemann, Association of Counties
Willie Prescott, Attorney General's Office
Adam Pfannenstiel, Corrections