

April 6, 2016

The Honorable Janice Pauls, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Pauls:

SUBJECT: Fiscal Note for HB 2715 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2715 is respectfully submitted to your committee.

HB 2715 would create the Electronic Communications Privacy Act which would restrict government access to various types of electronic communications and electronic communications information. Governmental entities would be prohibited from compelling service providers to produce electronic communication information; compelling any person or organization other than the owner of the device to produce electronic communication information; and physically accessing electronic communication information on a device. Governmental entities could obtain access to or production of electronic communication information through the issuance of a warrant, a court order or a valid subpoena. All warrants must comply with the provisions of the act.

Governmental entities could obtain electronic information in an emergency involving danger of death or serious injury. Any electronic information received by a governmental entity that is provided voluntarily from a service provider must be destroyed within 90 days unless certain circumstances apply. Governmental entities would be required to send notices to the target of a warrant or emergency request. If no target is identified, the notice must be sent to the Attorney General. The Attorney General could commence a civil action to compel any government entity to comply with the act.

Estimated State Fiscal Effect				
	FY 2016 SGF	FY 2016 All Funds	FY 2017 SGF	FY 2017 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$346,368	\$346,368
FTE Pos.	--	--	--	4.00

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The Office of the Attorney General indicates that the bill would require a total of \$346,368 from the State General Fund in FY 2017. This amount would include \$149,000 to hire 1.00 Attorney FTE position and 1.00 Legal Assistant FTE position to handle litigation and appeals from additional cases involving electronic communications information; \$140,550 for another 1.00 Attorney FTE position and another 1.00 Legal Assistant FTE position to handle civil compliance actions and reporting requirements when no target is identified; and \$56,818 for office set up and associated expenses such as rent, furniture, information technology, supplies, training and travel.

The Kansas Bureau of Investigation estimates that the bill would have a negligible effect on agency operating expenses and the workload of agency staff to carry out investigations. Local governments would likely incur costs related to complying with the act. However, the League of Kansas Municipalities is unable to calculate the precise fiscal effect on cities because data regarding the collection of electronic information is not currently available to the League.

The bill has the potential for increasing litigation regarding electronic communication information in the courts because of the new act and the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict how complex and time-consuming cases involving electronic communication information would be. Therefore, a fiscal effect cannot be determined. Any fiscal effect associated with HB 2715 is not reflected in *The FY 2017 Governor's Budget Report*.

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: Willie Prescott, Attorney General's Office
Ashley Michaelis, Judiciary
Shelia Sawyer-Tyler, KBI
Larry Baer, League of Municipalities
Melissa Wangemann, Association of Counties