

STATE OF KANSAS



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GOVERNOR JEFF COLYER, M.D.
LARRY L. CAMPBELL, CHIEF BUDGET OFFICER

February 9, 2018

The Honorable Rick Wilborn, Chairperson
Senate Committee on Judiciary
Statehouse, Room 541-E
Topeka, Kansas 66612

Dear Senator Wilborn:

SUBJECT: Fiscal Note for SB 363 by Senator Fitzgerald

In accordance with KSA 75-3715a, the following fiscal note concerning SB 363 is respectfully submitted to your committee.

SB 363 would require all Internet Service Providers (ISPs) to install technology protection measures that block online access to obscene content such as child pornography and websites that facilitate human trafficking by January 1, 2019. The bill would require a user who would like to access obscene materials to contact the ISP and request access, provide documentation that the user is at least 18 years old, acknowledge a written warning about accessing obscene materials, and pay a one-time \$20 fee. The bill would also consider violations of the Act to be violations of the Kansas Consumer Protection Act.

The Office of the Attorney General (OAG) indicates that enactment of SB 363 could result in lawsuits regarding freedom of speech, privacy, interstate commerce, and other constitutional provisions. The OAG indicates litigation could ensue in federal court, which would require it to defend the bill with in-house attorneys and remove those attorneys from other state legal matters. Additionally, the OAG estimates that the state could be ordered to pay up to \$500,000 in attorney fees and costs in FY 2019 to successful challengers of the bill if litigation began shortly before or at the time SB 363 was enacted. The OAG also indicates that the bill could increase revenues through enforcement actions that the OAG would take regarding violations of the Kansas Consumer Protection Act and the \$20 Obscene Material Access Fee. However, the OAG indicates any amount of additional revenue cannot be estimated because the number of violations and the number of users who would pay the access fee is unknown.

The Honorable Rick Wilborn, Chairperson

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The Kansas Bureau of Investigation and the Kansas Corporation Commission indicate that SB 363 would have no fiscal effect. Any fiscal effect associated with SB 363 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Campbell".

Larry L. Campbell
Chief Budget Officer

cc: Willie Prescott, Office of the Attorney General
Jake Fisher, KCC
Shelia Sawyer-Tyler, KBI