

March 13, 2019

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

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2115 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2115 is respectfully submitted to your committee.

HB 2115 would require, for all contracts greater than \$100,000, that state contractors use a software program that verifies that the hours billed for work performed by contractor employees on a computer are legitimate. State agencies would be prohibited from paying contractors for any hours or work performed on a computer unless the hours worked can be verified by the software program. Contractors would be required to purchase the software program and could not charge state agencies or the Division of Post Audit for access to or use of the software program. All data collected by the software program would be considered accounting records owned, kept and maintained by the contractor.

The Department of Administration indicates the bill would add new requirements to contract bids. The Department notes it is possible that some companies may choose not to submit bids for contracts if the companies believe the requirements are too difficult to implement, particularly small businesses who may not have the means to adapt to the requirements. The Department indicates that any conditions that have the potential to limit the number of bidders would reduce the Department's ability to foster competition and negotiate more favorable terms. However, the Department of Administration is unable to estimate the precise fiscal effect on the agency or statewide. Below are examples of how HB 2115 would affect state agencies.

The Office of the Attorney General indicates the bill may result in outside counsel being unwilling to contract with the state for legal services. If this occurs, the Office would need to hire additional in-house attorneys. The Office estimates \$659,297 would be required from the State General Fund in FY 2020 for 4.00 new Assistant Attorney General FTE positions and 1.00

Administrative Assistant FTE position. Of the total amount, \$579,878 would be for salaries and wages and \$79,419 would be for other operating expenditures such as office rent, supplies, equipment and travel. The Office of the Attorney General also indicates the constitutionality of the bill may be challenged by a state contractor. If this occurs, the Office estimates approximately \$100,000 would be needed to retain outside counsel if the workload of the case exceeds the capacity of the Office's attorneys.

The Department for Children and Families (DCF) estimates the bill would require additional expenditures of \$378,817 from all funds in FY 2020, including \$238,593 from the State General Fund. The total includes \$239,098 for salaries and wages for 4.00 FTE positions. DCF indicates 2.00 FTE positions in the Grants and Contracts Unit would be needed to review billing statements submitted by contractors and access the software program to ensure billings are accurate. An additional 2.00 FTE positions would be needed for information technology services. Also included in the total is \$27,220 for other operating expenditures associated with the positions.

DCF estimates increased information technology costs to establish and maintain a data transfer interface. The interface would be used to obtain and review contractor data. DCF estimates the total costs associated with the interface would be \$112,500. Additionally, the bill prohibits contractors from charging state agencies for the software program, which would result in additional unreimbursed costs incurred by contractors. DCF indicates that while the costs could not be directly billed to the agency, it is likely the costs would be included in future negotiated rates. DCF also notes that the bill could cause some contractors to be unwilling to do business with the state, which could result in DCF having to find new contractors at potentially higher rates.

The Board of Pharmacy indicates the bill would likely cause the agency to lose current contracts for its e-licensing system and K-TRACS, the Board's prescription drug monitoring program. The Board notes the software programs used for e-licensing and K-TRACS are property of the vendors. It is unlikely that the vendors would agree to the monitoring requirements in the bill. The Board indicates its current contract costs for the e-licensing and K-TRACS programs total \$2.7 million. The Board estimates that replacing the vendor systems with state-owned and developed systems would be more than the current costs.

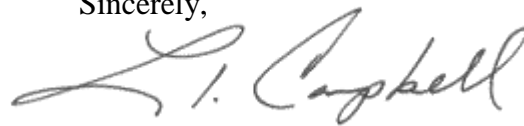
The Board indicates that it currently contracts with outside counsel for attorney services. Because of the confidential nature of attorney-client services, the Board believes firms would not be willing to contract with the agency. As a result, the Board would have to either hire attorneys or contract with the Office of the Attorney General. The Board estimates hiring in-house counsel would require \$186,822 per year from the agency's fee fund for 2.00 new Attorney FTE positions. The Board estimates that contracting with the Office of the Attorney General would require additional expenditures of approximately \$75,000 per year. Additionally, the Board estimates there would be monitoring and compliance costs associated with the bill, which would require additional expenditures of \$46,700 from the State Board of Pharmacy Fee Fund and an additional 0.5 FTE positions.

The Kansas Department of Transportation (KDOT) estimates the bill would have a fiscal effect on agency operations. However, the precise fiscal effect is unknown because KDOT is

unable to predict the manner and extent to which contractors would build the costs of HB 2115 into future contracts. The Department is also unable to predict how the bill might affect the number of bidders for contracts and contract prices. Additionally, KDOT is unable to determine the amount of additional work that may be required by agency staff. KDOT also indicates that if the bill is found to be in violation of federal law, federal funding used on contracts for engineering design and inspections would be in jeopardy.

The Department of Corrections estimates the bill would have a fiscal effect on agency operations, but the Department is unable to determine the precise effect on expenditures. The Legislative Division of Post Audit indicates the bill would have no fiscal effect on the Division. Any fiscal effect associated with HB 2115 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink that reads "L. L. Campbell". The signature is written in a cursive style with a large, sweeping initial "L".

Larry L. Campbell
Division of the Budget

cc: Colleen Becker, Department of Administration
Chris Clarke, Post Audit
Lynn Robinson, Department of Revenue
Ben Cleeves, Transportation
Jackie Aubert, Children & Families
Linda Kelly, Corrections
Courtney Fitzgerald, OITS
Alexandra Blasi, Board of Pharmacy