

April 25, 2022

The Honorable John Barker, Chairperson
House Committee on Federal and State Affairs
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Representative Barker:

SUBJECT: Fiscal Note for HB 2744 by House Committee on Appropriations

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2744 is respectfully submitted to your committee.

HB 2744 would create the Kansas Sunset Act and the Kansas Sunset Advisory Commission within the Office of the State Treasurer. The Commission would consist of eleven members, including the State Treasurer; two members of the House of Representatives appointed by the Speaker of the House, one of whom must be a member of the House Committee on Appropriations; one Representative appointed by the House minority leader; two Senators appointed by the President of the Senate, one of whom must be a member of the Senate Committee on Ways and Means; one Senator appointed by the Senate minority leader; two members appointed by the State Treasurer; and two members appointed by the Governor. The bill would require the Commission to adopt rules and regulations to administer the provisions of the bill by January 1, 2023.

The Commission would consider whether a public need exists for the continuation of each state agency. Agencies that license an occupation or profession would be examined by the Commission based on certain criteria. The Commission would be required to determine whether the governing body of an agency that licenses an occupation or profession has made an evaluation regarding the type of personal information of license holders that the agency should make available on its website based on certain factors. If the Commission determines that the governing body of an agency has not completed such evaluations, the commission would be required to recommend that an evaluation be performed.

State agencies would be required to assist the Commission when requested. Members of the Commission would be allowed to attend any meetings and proceedings of any state agency and may inspect the records, documents, and files of any state agency. The bill would specify that

communications between the Commission and a state agency must be kept confidential and would not be subject to open records requests. The provisions regarding confidentiality would expire on July 1, 2027. The Commission would be required to submit a report on each review to the Legislature and the Governor on or before January 15th of each year. The bill lists items that would be required to be included in the report, such as certain recommendations and their fiscal effects.

The Commission would submit any recommendations that do not require a statutory change to the Post Auditor, who may conduct an audit of whether the agency has implemented the Commission's recommendations. On or before January 1st of the year before the year in which a state agency is set to expire, the agency would be required to submit a report to the Commission in a form prescribed by the State Treasurer. The Commission would have to review each state agency at least once every ten years. In addition, the Commission would review each fee authorized by statute that is effective on or after July 1, 2022. Each fee that is set to expire on a certain date would have to be reviewed by the Commission in the year immediately preceding the year of expiration. For all other fees, the Commission would perform a review during the fourth year following the effective date of such fee, but at least once every five years.

The Commission would also be required to review the fees, fines, and other charges assessed on students enrolled in each state educational institution at least once every five years and submit a report of such reviews, including any recommendations, to the Board of Regents. The Commission would also review all real property owned by the state, including each state educational institution, and all real property leased by the state and used by a state agency at least once every five years and submit a report to the Board of Regents and to the chief administrative officer of the state educational institution included in the report. The bill requires the Commission to conduct at least one public hearing each year and permit Kansas residents to provide testimony regarding state agencies, state programs, and fees. Finally, the State Treasurer would be required to develop and maintain a website for the Commission that lists all reports and recommendations, along with any other information the State Treasurer deems necessary.

The State Treasurer's Office indicates the fiscal effect of the bill depends upon the interpretation of the provisions regarding assistance to the Commission by the Legislative Division of Post Audit (LPA), the Division of the Budget (DOB), and the Kansas Legislative Research Department (KLRD). If the majority of the duties required by the bill would be completed by LPA, DOB, and KLRD, including assisting the Commission in conducting reviews; preparing reports; and coordinating between the Commission, state agencies, LPA, DOB, and KLRD; enactment of the bill would increase expenditures by \$212,736 from the State General Fund in FY 2023 to add 3.00 FTE positions. Of this amount \$93,000 would be for 1.00 Director FTE position, \$58,000 would be for 1.00 Policy Analyst FTE position, and \$53,000 would be for 1.00 Administrative Support FTE position. In addition, expenditures for IT equipment, software licenses, and other operating costs would total \$8,736 from the State General Fund in FY 2023. If enactment of the bill would require the Office to render legal counsel, the Office states it would have to add legal staff positions to support the work of the Commission in addition to the Office's general legal work. Expenditures related to potential legal counsel are not included in this estimate.

The Office notes that if the majority of the duties of the bill would be conducted by the Commission itself, with LPA, DOB, and KLRD playing a more minor role in providing assistance to the Commission, the fiscal effect stated above would increase. The State Treasurer's Office indicates the staffing requirements would increase if the Commission would be located within the agency because the Office would have to hire additional staff. For comparison, the Office notes that Texas has a sunset advisory commission with four director positions, 15 policy analyst positions, and four administrative support positions. The Office would also have additional costs for office space, IT infrastructure, and other operating costs. However, the fiscal effect of locating the Commission within the State Treasurer's Office and requiring the Office to conduct a majority of the duties outlined in the bill could not be estimated.

The Department of Transportation indicates enactment of the bill would require staff to compile and provide all necessary information in support of the Commission, LPA, DOB, and KLRD. However, any fiscal effect could be handled within existing resources.

LPA notes any follow up audits it is asked to perform under the provisions of the bill would mean it could not complete other audits. However, any fiscal effect would be negligible and could be handled within existing resources.

Legislative Administrative Services and the Legislative Coordinating Council indicate the bill would have no fiscal effect upon the Legislature's budget outside of normal operations and notes that any payment to members of the Commission would be paid by the State Treasurer's Office.

The Office of Judicial Administration indicates enactment of the bill could increase expenditures if the definition of "state agency" includes the Judicial Branch. However, a fiscal effect could not be estimated.

The Office of the Attorney General indicates enactment of the bill could increase expenditures related to increased staff workload in assisting the Commission during years the agency is being reviewed. However, a fiscal effect cannot be estimated.

The Behavioral Sciences Regulatory Board indicates enactment of the bill would require it to reprioritize current staff assignments and potentially hire additional temporary staff, which could cause delays in its licensure and complaint investigations. However, a fiscal effect could not be estimated.

The Department of Health and Environment indicates the fiscal effect of the bill would depend upon recommendations made by the Commission and implemented within the agency. Therefore, a fiscal effect could not be estimated.

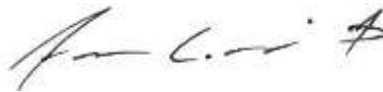
The Board of Cosmetology and the Board of Healing Arts indicate enactment of the bill would require the agencies to provide information to the Commission, which could increase

expenditures depending on the amount and type of information requested. However, a fiscal effect could not be estimated.

The Department of Administration, the Office of Information Technology Services, the Department of Revenue, the Department for Children and Families, and the Department of Labor, indicate enactment of the bill would not have a fiscal effect. Any fiscal effect associated with HB 2744 is not reflected in *The FY 2023 Governor's Budget Report*.

A request to provide fiscal effect information has been sent to the Kansas Legislative Research Department and the Board of Regents but a response has not yet been received. An updated version of the fiscal note will be submitted once additional information is received.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Brian Reiter, OITS
Chris Clarke, Post Audit
J.G. Scott, Legislative Research
John Hedges, Office of the Treasurer
Celeste Chaney-Tucker, Department of Administration
Willie Prescott, Office of the Attorney General
Karen Clowers, Legislative Services
Lynn Robinson, Department of Revenue
Susan Gile, Board of Healing Arts
Aubrie Pryer, Cosmetology
Kelly Oliver, Board of Regents
Dawn Palmberg, Department of Labor
Kim Holter, Children & Families
Dan Thimmesch, Health & Environment
Brendan Yorkey, Department of Transportation
Vicki Jacobsen, Judiciary
David Fye, Behavioral Sciences