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Adam C. Proffitt, Director

Laura Kelly, Governor

March 8, 2024

The Honorable Kellie Warren, Chairperson
Senate Committee on Judiciary
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Senator Warren:

SUBJECT: Fiscal Note for SB 522 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 522 is respectfully submitted to your committee.

SB 522 would create the crime of unlawful entry into the State of Kansas. The bill would require notification of federal immigration authorities upon arrest for the offense. The bill would define unlawful entry into the state as being physically present within the boundaries of Kansas while not a citizen or national of the United States. Unlawful entry would be a class A, nonperson misdemeanor for a first defense and a severity level 10, nonperson felony for a second or subsequent conviction. The bill outlines what would be considered affirmative defenses to the crime. The bill would require the court to issue an order, upon arrest for a violation, directing the prosecutor to notify U.S. Immigration and Customs Enforcement of the Department of Homeland Security and request the person's immigration status. The bill would provide immunity from liability for enforcement efforts under state law for any city or county official, contractor, or employee. The bill would also provide indemnification for enforcement efforts, which arise under federal law, for any city or county official, contractor, or employee, as well as indemnification for attorney fees and court costs. Any state officer, employee, or contractor who is entitled to indemnification would also be entitled to representation by the Attorney General. The bill would allow for appeals to the Kansas Supreme Court as a matter of right from any final enforcement action or order.

The Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed in district courts because it creates a new crime and allows appeals to the Kansas Supreme Court. This would increase the time spent by district court and Supreme Court judicial and nonjudicial personnel in processing, researching, and hearing cases. Since the crime

carries lower-level penalties, there could also be more supervision of offenders required to be performed by court services officers. According to the Office, until the courts have had an opportunity to operate under the provisions of the bill, an accurate estimate of the fiscal effect on expenditures by the Judicial Branch cannot be given.

The Sentencing Commission indicates enactment of the bill would increase the number of prison beds needed, but the effect would be minimal.

The Office of the Attorney General states that enactment of the bill would increase expenditures to the agency to represent state officers, employees, or contractors entitled to indemnification. The Office also indicates the bill would have a higher-than-normal likelihood of being challenged in court, if enacted, which would increase the costs of defending the state. However, a precise fiscal effect on the agency cannot be estimated. Any fiscal effect associated with SB 522 is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties states that the bill could increase liability for indemnification for counties, which could increase expenditures. The Association states that the liability limits outlined in the bill could create significant expenditures for counties if multiple incidents occur.

The League of Kansas Municipalities states that enactment of the bill could increase expenditures to cities to implement and enforce the provisions of the bill as well as for legal defense in cases arising from the bill.

Sincerely,
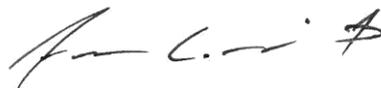
Adam C. Proffitt
Director of the Budget

cc: Trisha Morrow, Judiciary
    Jay Hall, Kansas Association of Counties
    Wendi Stark, League of Kansas Municipalities