

April 30, 2021

The Honorable Sean Tarwater, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 151D-S
Topeka, Kansas 66612

Dear Representative Tarwater:

SUBJECT: Fiscal Note for HB 2293 by House Committee on Commerce, Labor and Economic Development

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2293 is respectfully submitted to your committee.

HB 2293 would enact the Taxpayer Empowerment, Accountability and Transparency in State Contracting Act. The bill would require the Division of Purchases within the Department of Administration to establish and maintain an online database of private service contract information that is accessible, searchable, sortable, and downloadable. The bill also specifies what information would be included in the database. The database information would then be compiled into an annual service contractor expenditure budget accompanying the Governor's budget, detailing total spending on private service contracts for the state.

The bill would require each private service contract in excess of \$25,000 to specify that the state agency is entitled to a copy of records and files related to the performance of the governmental function and indicate that the records and files are subject to the Kansas Open Records Act and would be required to be disclosed in accordance with the Act.

Before any private service contract is finalized, the bill would require the contracting state agency to prepare a request to the Legislature for an appropriation and any authority that is necessary for the contracting state agency to hire personnel and obtain resources necessary to oversee and monitor the performance of private service contracts and enforce other conditions as required by law. The bill specifies that no procurement for a private service contract would proceed unless the necessary appropriation and authority have been granted.

Prior to entering into a private service contract, HB 2293 would require the Secretary of Administration to make public a cost comparison. No state agency could enter into a private service contract unless the proposed contract is projected to result in overall cost savings of at least 10.0 percent less than the projected cost of having the service provided by public employees.

Additionally, the bill would require that prior to entering into a private service contract, the Secretary of Administration would produce a thorough analysis of the possible impacts of the private service contract. The analysis would include, but not be limited to, the possible loss of employment or income in a local area; impacts on social services in the local area; impacts on public assistance programs; economic impacts on local businesses; any possible loss or increase in tax revenue for the local area; and any environmental impacts that may result from the private service contract, including any upgrades or possible degradation. The analysis would be posted on the Department's website and, after the report is posted, the contracting state agency would be required to conduct public meetings in order for all citizens to have an opportunity to address concerns and obtain information.

HB 2293 would require that no private service contract could be automatically renewed without utilizing the competitive bidding process. Any in-house bids submitted would be considered and if an in-house bid meets the cost and performance criteria specified in law or the request for proposal, the bid would be deemed the most qualified bid. The bill also outlines other requirements for private service contracts.

The Department of Administration estimates additional State General Fund expenditures in FY 2022 of \$490,000, along with an additional 6.00 FTE positions to carry out the bill's provisions. Of that amount, \$440,000 would be for salaries and wages and \$50,000 would be for other operating expenditures.

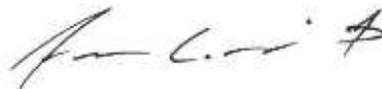
The Board of Regents states enactment of the bill would have a fiscal effect on state universities that would be dependent on how the private service database is created and how universities would interface with the database. State universities would be required to collect, track, submit, and manage contract data and would be required to ensure the contractors would maintain and report the required data. The Board states the Legislature would also need to approve an appropriation and grant authority to the state universities for any personnel and resources necessary to oversee contracts, which could potentially lead to delays or issues with implementation of contracts as the Legislature is only in session for a portion of the year.

The Kansas Department for Aging and Disability Services indicates any fiscal effect resulting from the bill's enactment could be absorbed within existing resources.

The Kansas Department of Transportation (KDOT) states enactment of HB 2293 would result in additional expenditures and personnel in order to fulfil the administrative requirements of the bill. However, KDOT is unable to estimate the additional expenditures and personnel required until the agency has a better understanding of the requirements and processes to be instituted by the Department of Administration. KDOT also states it is unable to determine if any existing

private service contracts would have to be eliminated under the bill's provisions and what staffing and expenditures would be required to complete the work being performed under such contracts if they could no longer be utilized. Any fiscal effect associated with HB 2293 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Jeff Scannell, Department of Administration
Debbie Thomas, Judiciary
Lynn Robinson, Department of Revenue
Karen Clowers, Legislative Services