

March 24, 2021

REVISED

The Honorable Fred Patton, Chairperson  
House Committee on Judiciary  
Statehouse, Room 519C-N  
Topeka, Kansas 66612

Dear Representative Patton:

**SUBJECT:** Revised Fiscal Note for HB 2377 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2377 is respectfully submitted to your committee.

HB 2377, as amended by the House Committee on Judiciary, would amend provisions regarding reinstatement of driver's licenses for certain persons with ignition interlock devices, reinstatement of driver's licenses after a lifetime disqualification, and penalties for certain alcohol or drug-related driving offenses. The bill would outline a process for a person who is restricted to driving a vehicle with an ignition interlock device or who has a lifetime disqualification to submit a request to the Division of Vehicles for reinstatement. The bill would describe conditions the Division must use in its determination and would create an appeals process for individuals denied reinstatement. The bill would allow a person to complete the interlock device program only if they have not had more than three standard violations and no serious violations in the 90 consecutive days prior to the application for reinstatement. The bill would exclude individuals convicted of certain crimes that have resulted in lifetime disqualifications from being eligible for reinstatement. The bill would also amend the penalties for third and fourth time driving under the influence felony convictions. City attorneys would be prohibited from entering into a diversion agreement in lieu of further criminal proceedings for certain violations if the defendant was a commercial driver's license holder at the time the violation was committed or at any subsequent time prior to being considered for diversion. The bill would also require the Secretary of Revenue to create rules and regulations regarding the provisions of the bill prior to March 1, 2022.

As introduced, the bill did not require the adoption of rules and regulations prior to March 1, 2022.

Since the original fiscal effect statement was issued, the Department of Transportation has provided information on the fiscal effect of this bill. The Department states that enactment of the bill, in any form, would cause the state to be in noncompliance with federal regulations regarding minimum penalties for repeat driving under the influence (DUI) offences. The Department indicates that the provisions regarding repeat DUI offences in HB 2377 would require that 2.5 percent, or \$8.6 million, of the state's core highway construction funds for the National Highway Performance Program and the Surface Transportation Program be transferred to traffic safety programs to address alcohol-impaired driving or other eligible programs under the Highway Safety Improvement Program. This annual transfer would continue as long as the state is out of compliance. Therefore, the Department indicates that enactment of HB 2377 would reduce expenditures by \$8.6 million from the State Highway Fund beginning in FY 2022 due to reduced federal highway construction funding. Conversely, the bill would increase expenditures by \$8.6 million from the Other Federal Grants Fund beginning in FY 2022 due to increased federal funding for traffic safety programs. The Department of Transportation also indicates that enactment of the bill would require all DUI offenders to receive an ignition interlock device, which would make the state eligible for an estimated \$250,000 in funding from the National Highway Traffic Safety Administration to support behavioral traffic safety programs. This would increase expenditures by \$250,000 from the Other Federal Grants Fund beginning in FY 2022. The total fiscal effect on the Department of Transportation would be net increased expenditures of \$250,000 from federal funds in FY 2022.

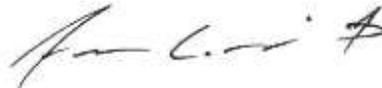
The Kansas Sentencing Commission estimates that enactment of HB 2377, in any form, would result in an increase of 193 adult prison beds needed by the end of FY 2022. By the end of FY 2028, an additional 211 beds would be needed. The current estimated available bed capacity is 9,420 for males and 948 for females. Based upon the Commission's most recent ten-year projection contained in its *FY 2020 Adult Inmate Prison Population Projections* report, it is estimated that the year-end population for available male capacity will be under capacity by 1,287 inmates in FY 2021 and 1,241 inmates in FY 2022. The Department of Corrections indicates that an increase in the prison population will have a detrimental effect on its ability to provide for social distances among its population, which could contribute to spread of COVID-19 among residents in the facility, staff working at the facility, and residents released into the community.

The Office of Judicial Administration indicates that enactment of the bill, in any form, would have a minimal fiscal effect that could be handled within existing resources.

The Department of Revenue indicates that it would require a total of \$9,979 from the State General Fund in FY 2022 to implement HB 2377, in any form, and to modify the Driver Solutions IT system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required. The Department also indicates

that the bill would reduce revenues because it would eliminate a \$40 application fee. In calendar year 2020 the fee generated \$3,480 (\$40 x 87 applications) to the Division of Vehicles Operating Fund. Any fiscal effect associated with HB 2377, in any form, 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: Lynn Robinson, Department of Revenue  
Scott Schultz, Sentencing Commission  
Debbie Thomas, Judiciary  
Randy Bowman, Corrections