

STATE OF KANSAS



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GOVERNOR JEFF COLYER, M.D.
LARRY L. CAMPBELL, CHIEF BUDGET OFFICER

March 19, 2018

The Honorable Bud Estes, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator Estes:

SUBJECT: Fiscal Note for SB 446 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 446 is respectfully submitted to your committee.

SB 446 would require all distributors of internet-accessible content to install technology protection measures that block online access to obscene content such as child pornography and websites that facilitate human trafficking by January 1, 2019. The bill would require a user who would like to access obscene materials to contact the distributor and request access, provide documentation that the user is at least 18 years old, acknowledge a written warning about accessing obscene materials, and pay a one-time \$20 Obscene Material Access Fee. The bill would deposit all fees into the Human Trafficking and Child Exploitation Prevention Fund for the purpose of awarding grants to individuals and organizations working to prevent the creation, dissemination or consumption of obscene content. The bill would also allow distributors to charge access fees in addition to the Obscene Material Access Fee. Violations of the Act would be considered violations of the Kansas Consumer Protection Act and intentional violations by a distributor would be a class A misdemeanor.

The Office of the Attorney General (OAG) indicates that enactment of SB 446 could result in lawsuits regarding freedom of speech, privacy, interstate commerce, and other constitutional provisions. The OAG indicates litigation could ensue in federal court, which would require it to defend the bill with in-house attorneys and remove those attorneys from other state legal matters. Additionally, the OAG estimates that the state could be ordered to pay up to \$500,000 in attorney fees and costs in FY 2019 to successful challengers of the bill, if litigation began shortly before or at the time SB 446 was enacted. The OAG also indicates that the bill could increase revenues from enforcement actions that the OAG would take regarding violations of the Kansas Consumer Protection Act and the \$20 Obscene Material Access Fee. However, the OAG indicates any

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amount of additional revenue cannot be estimated because the number of violations and the number of users who would pay the access fee is unknown.

The Kansas Bureau of Investigation and the Kansas Corporation Commission indicate that SB 446 would have no fiscal effect. Any fiscal effect associated with SB 446 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. Campbell", written in a cursive style.

Larry L. Campbell
Chief Budget Officer

cc: Willie Prescott, Office of the Attorney General
Jake Fisher, KCC