

February 17, 2014

The Honorable Lance Kinzer, Chairperson
House Committee on Judiciary
Statehouse, Room 165-W
Topeka, Kansas 66612

Dear Representative Kinzer:

SUBJECT: Fiscal Note for HB 2605 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2605 is respectfully submitted to your committee.

HB 2605 would create the Successor Corporation Asbestos-Related Liability Fairness Act. It would establish a set of rules for imposing asbestos-related liabilities on successor corporations that assume or incur such liabilities from a transfer of corporations. The liability limitation of a successor corporation would be limited to the fair market value of the total gross assets of the originally liable corporation, as determined at the time of a merger or consolidation. If the original corporation had assumed or incurred successor asbestos-related liabilities in connection with a merger or consolidation with a prior company, the fair market value of the total assets of the prior company would be substituted for the limitation. The bill provides guidance on establishing fair market value. The limitation would not apply to: workers compensation benefits; any claim that does not constitute a successor asbestos-related liability; any obligation under the National Labor Relations Act; and a successor that, after a merger or consolidation, continued conduction certain asbestos-related activities.

The bill would require that courts construe the provisions of this Act liberally with regard to successors. It would apply to asbestos claims filed against a successor after June 30, 2014. It would also apply to any pending asbestos claims against a successor in which trial has not commenced as of July 1, 2014.

The Office of Judicial Administration reports that HB 2605 could increase the amount of time spent in district courts related to asbestos claims. The bill would not change the law, but the bill carves out a special subset for successor corporations. Asbestos claims against successor corporations would probably be more complicated cases because parties would likely have to litigate more details about liability, particularly the fair market value of assets at the time of transfer and the method used in determining it. The courts may have to revisit some aspects of

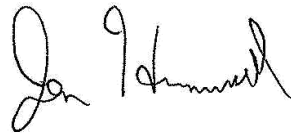
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pending cases that have not gone to trial by July 1, 2014, and make decisions about the constitutionality of retroactive application. This would increase the time spent by district court and appellate court judicial and non-judicial personnel in processing, researching, and hearing cases. However, it is not possible to predict how complex or time consuming the cases would be. Therefore, a precise fiscal effect cannot be determined. Any fiscal effect associated with HB 2605 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Hummell". The signature is written in a cursive, flowing style.

Jon Hummell,
Interim Director of the Budget

cc: Mary Rinehart, Judiciary
Desiree Taliaferro, Secretary of State's Office