

January 24, 2017

The Honorable Blaine Finch, Chairperson
House Committee on Judiciary
Statehouse, Room 519-N
Topeka, Kansas 66612

Dear Representative Finch:

SUBJECT: Fiscal Note for HB 2116 by House Committee on Corrections and Juvenile Justice

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2116 is respectfully submitted to your committee.

HB 2116 would require the Office of the Attorney General to create a searchable public website that contains information about property seized and forfeited under the Kansas Standard Asset Seizure and Forfeiture Act. Law enforcement agencies would be required to provide monthly information to the Office of the Attorney General. Beginning in calendar year 2018, the Attorney General must provide annual reports to the Legislature regarding seized and forfeited property.

Forfeiture of property would occur only after conviction of certain offenses. Under current law, conduct and offenses giving rise to forfeiture of property can occur whether or not there is a prosecution. Also, the bill would change many of the offenses giving rise to forfeiture of property to felony offenses. The bill would add motor vehicles that have a market value of \$10,000 or less, cash that is less than \$200, and homestead property to the list of property that is exempt from forfeiture.

Personal property may be seized by law enforcement provided it is incident to a lawful arrest or search; has been the subject of a prior judgment in favor of the state; or the law enforcement officer has probable cause to believe that a delay will result in the removal or destruction of the property. Individuals who have property seized under the act may petition the court to determine if the forfeiture was excessive. These individuals must establish at a hearing that the forfeiture was disproportional to the seriousness of the offense.

The bill would require all proceeds from the sale of seized property to be deposited into the State General Fund for the purposes of funding K-12 education. Under current law, proceeds from the sale of seized property is used for district, Attorney General, or private attorney fees; law enforcement reimbursements for purchasing contraband or controlled substances; state forfeiture funds of the Kansas Bureau of Investigation, Kansas Highway Patrol, and the Department of Corrections; the State Medicaid Fraud Forfeiture Fund in the Office of the Attorney General; the Kansas National Guard Counter Drug State Forfeiture Fund; and special law enforcement trust funds for local governments. The bill would require agencies to submit annual reports containing information about property seized.

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The Office of the Attorney General estimates that HB 2116 would require additional expenditures of \$316,259 to \$416,259 from the State General Fund and 1.00 FTE position in FY 2018. Of the total cost, approximately \$250,000 to \$350,000 would be for contracting with a vendor to create the searchable database of seized property. The database would require ongoing maintenance, which would cost \$25,000 to \$40,000. Additionally, a position would be needed to carry out the administrative aspects of the bill and compile the annual report to the Legislature. The salary and wages expenditures for the position would be \$66,259. For FY 2019, \$88,559 to \$106,559 would be needed for ongoing costs.

According to the Kansas Highway Patrol, the bill would require shifting \$85,643 of salaries and wages expenditures for the Asset Forfeiture Coordinator position from the agency's state forfeiture fund to the Kansas Highway Patrol operations fund. Additionally, the agency estimates a \$471,165 loss in annual revenue, which is based on the average of the last five years of state forfeiture proceeds. Under HB 2116, the proceeds would be remitted to the State General Fund instead of the agency's state forfeiture fund. The Kansas Highway Patrol uses state forfeiture funds for training and specialized equipment for interdiction activities. Eliminating the funding source would require the agency to reduce these efforts unless additional resources are provided elsewhere in the Kansas Highway Patrol budget.

The Kansas Bureau of Investigation indicates that the bill would likely reduce agency revenue; however, it is unable to estimate the specific fiscal effect. The Adjutant General states that the bill would not have a fiscal effect on its operations.

Local governments would incur increased administrative expenditures and workloads from the additional reporting requirements and reduced revenues from the loss of special law enforcement trust fund proceeds. However, the Kansas Association of Counties and the League of Kansas Municipalities were unable to estimate a fiscal effect on local governments because neither agency currently possesses data regarding special law enforcement trust funds. It is not known how much would be remitted from local governments to the State General Fund under the bill. Any fiscal effect associated with HB 2116 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,



Shawn Sullivan,
Director of the Budget

cc: Kim Torrey, Highway Patrol
Shelia Sawyer-Tyler, KBI
Brianna Landon, Corrections
Willie Prescott, Attorney General's Office
Cheri Froetschner, Adjutant General's Office
Brock Ingmire, League of Municipalities
Melissa Wangemann, Association of Counties