

January 25, 2022

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
Statehouse, Room 582-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2495 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2495 is respectfully submitted to your committee.

HB 2495 would prohibit a public agency from the following:

1. Requiring an individual to provide a public agency with personal information or compel the release of personal information;
2. Require any entity that is exempt from federal income taxation under Section 501(c) of the federal Internal Revenue Code to provide a public agency with personal information or compel the release of personal information;
3. Release or publicly disclose personal information in the possession of such public agency;
or
4. Request or require a current or prospective contractor or grant recipient to provide a public agency with a list of entities that are exempt from federal income taxation under Section 501(c) of the federal Internal Revenue Code to which the contractor or grantee has provided financial or nonfinancial support.

Personal information would be confidential and would not be subject to the Kansas Open Records Act. The bill's provisions would not apply to any report or disclosure required by Article 41 of Chapter 25 or Article 2 of Chapter 46 of the *Kansas Statutes Annotated*; a valid warrant issued for personal information by a court; a lawful request for discovery of personal information in litigation if the person is making such a request; admission of personal information as relevant evidence before a court, except that no court would disclose personal information unless the court makes a finding of good cause; and a national securities association as defined by the Securities Exchange Act.

A person alleging a violation could bring a civil action for injunctive relief or damages. Damages awarded could not be less \$7,500 for each violation. The courts could award reasonable attorney fees and costs to the complainant when the court determines such an award is appropriate. Violations of the bill's provisions would be a class C nonperson misdemeanor.

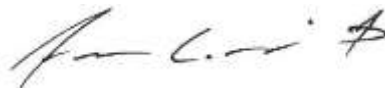
The Office of Judicial Administration states enactment of HB 2495 could increase the number of cases filed in district court because it allows for a civil suit to be filed, which could result in more time spent by court employees and judges processing and deciding these cases. Since the crime carries a misdemeanor penalty, there could be more supervision of offenders required to be performed by court service officers. The Office estimates enactment of the bill could result in the collection of docket and supervision fees in those cases filed under the bill's provisions. According to the Office, a fiscal effect cannot be estimated.

The Department of Revenue estimates additional State General Fund expenditures of \$11,835 in FY 2023 for programming changes to the agency's systems.

The Office of the Attorney General states the agency administers and enforces the Charitable Organizations and Solicitations Act (COSA). The Act requires most charitable organizations that solicit donations in Kansas to register with the agency. KSA 17-1763 contains a list of information the Office is required to collect from a charity to register. Because the bill does not exempt COSA, the agency would no longer be able to collect this information. This would require a modification of the COSA registration forms, which the agency states could be done within existing resources.

Further, the Office states the bill's enactment could hinder the ability of the agency to enforce COSA. The bill's enactment would also require additional time for the agency to review and redact information on documents that may contain information prohibited from disclosure under the Kansas Open Records Act. Also, the Office states that enactment of HB 2495 could result in additional litigation against the state, requiring a defense by the Office of the Attorney General under the Kansas Tort Claims Act. State agencies that violate the bill's provisions would be subject to the civil penalties and attorney fees as described in the bill, according to the agency. Any fiscal effect associated with HB 2495 is not reflected in *The FY 2023 Governor's Budget Report*.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
Lynn Robinson, Department of Revenue
Jay Hall, Association of Counties
Wendi Stark, League of Municipalities
Willie Prescott, Office of the Attorney General