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March 26, 2018

The Honorable Jene Vickrey, Chairperson
House Committee on Insurance
Statehouse, Room 276-W
Topeka, Kansas 66612

Dear Representative Vickrey:

SUBJECT: Fiscal Note for HB 2789 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2789 is respectfully submitted to your committee.

HB 2789 would create the Kansas Staff as First Emergency Responders (SAFER) Act. The bill would require the State Board of Education to develop and adopt statewide standards for making all public schools safe and secure. The bill would outline standards to include infrastructure, security technology and communications systems. The State Board would be required to notify all school districts of the standards for making all public schools safe and secure on or before January 1, 2019, as well as any state agency that assisted in the standards.

In addition, the State Board would be required to develop and adopt statewide standards for school safety and security plans. The bill would outline standards for the plans, including the training of school district employees, procedures for making notifications to individuals outside the school building during emergency situations, and maintaining communication with law enforcement agencies and procedures for securing buildings. The plan would include the roles and responsibilities for implementing procedures at the school district and school building levels. The State Board would be required to notify all school districts of the standards for school safety and security plans on or before January 1, 2019, as well as any state agency that assisted in the standards. Each school district would be required to adopt a comprehensive plan based on statewide standards adopted by the State Board.

Any law enforcement agency and law enforcement officer would not be liable for personal injury or property damage resulting from an act or omission committed by the agency or officer required by the school safety plans. A law enforcement agency or law enforcement officer who is the prevailing party in an action or other proceeding brought against the agency or officer for acts

or omissions while engaged in the discharge of the agency's or officer's duties may be awarded court costs and reasonable attorney fees.

School districts could authorize an employee of the district who has a license to carry a concealed handgun to obtain a license with a SAFER schools endorsement. Any employee who has obtained a SAFER schools endorsement to carry a concealed handgun would be designated as a SAFER schools team member by the school district. All SAFER schools team members would be authorized by school district to carry a concealed handgun in any building of the district. Any information regarding employees designated as SAFER schools team members, or otherwise authorized to carry a concealed handgun that is kept or maintained by a school district would be considered confidential and would not be subject to public disclosure. The board of education of any school district that authorizes employees to carry a concealed handgun would adopt policies and procedures for maintaining the confidentiality of the names, addresses and other personally identifiable information of the employees. Any individual or organization that willfully or knowingly discloses, permits or encourages disclosure of the confidential information would be guilty of a class C misdemeanor.

The bill would prohibit an insurance company from charging unfair discriminatory premiums or refusing to insure a unified school district solely because the school district authorizes employees to carry concealed handguns on the premises of schools, unless the rate differential or policy refusal is based on sound actuarial principles.

For the purposes of promoting the safety and protection of students and emphasizing how students should respond when encountering a firearm, the bill would authorize school districts to provide firearm safety education programs. The State Board of Education would be required to establish curriculum guidelines for a standardized firearm safety education program. The bill would outline suggested programs by grade level.

The bill would exempt from public disclosure the following: (1) any standards that have been adopted by the State Board of Education for making public schools safe and secure; (2) any standards for school safety and security plans; (3) any comprehensive school safety and security plans adopted by a local board of education; and (4) any records regarding school district employees designated as SAFER school team members.

Any individual could report a student through the SAFER Schools Hotline, which would be maintained by the Kansas Bureau of Investigation (KBI). All reports made through the hotline would be investigated. Each school district would be required to prominently publish the hotline on its website.

The Office of the Attorney General would be required to issue a concealed handgun permit with a SAFER schools endorsement to any individual who is eligible and who complies with the application and training requirements for the endorsement. However, the Attorney General could only issue a license with a SAFER schools endorsement to individuals who have been authorized by a school district employing the individual.

In any action against a school district regarding possession or use of firearms on a school district premise, there would be a rebuttable presumption of negligence on part of the district when it is shown that the district did not authorize any employee, other than school security officers, to carry concealed handguns in buildings operated by the district.

The bill would grant a board of education the authority to recess to a closed or executive meeting for the purpose of discussing matters relating to the authorization of school district employees to carry concealed handguns or the designation of SAFER schools team members.

According to the Department of Education, enactment of the bill would require additional FY 2019 expenditures totaling \$300,000, all from the State General Fund. Of this amount, \$234,000 would be for 3.00 FTE positions, including 2.00 FTE Professional Staff and 1.00 FTE support staff. These staff members would assist the State Board of Education to develop statewide standards and give technical assistance to school districts. Also included in this estimate are expenditures totaling \$66,000 for other operating expenditures, including \$20,000 for travel and subsistence expenditures, \$20,000 for providing school district workshops, \$10,000 for computer and supplies, \$7,000 for rent, \$4,000 for communications and \$5,000 for committee review of district applications.

The Office of the Attorney General states that enactment of HB 2789 would require the agency to create rules and regulations for the SAFER endorsement, create an additional concealed carry training program, as well as the continual oversight of those concealed carry handgun (CCH) licensees with the SAFER endorsement. The bill would provide additional revenues to the agency from a one-time \$50 SAFER application fee from each applicant in addition to their original \$100 license application fee. From this fee, the agency pays \$47 per fingerprint-based background check to the KBI to cover state and federal costs of that check. If there are no background issues with an initial application, the OAG would retain \$53 of the \$100 to administer the first four years of licensure. The agency estimates that approximately 300 individuals (about 1 per school district) would be authorized for SAFER endorsement initially. The agency states that current staffing levels would be able to process and administer that anticipated level of SAFER applications. However, the agency does not have an estimate of how many of those individuals applying for the SAFER endorsement would already be license holders. As a result, the minimum increased revenue from the enactment of the bill would be \$15,000 ($\$50 \text{ fee} \times 300 \text{ applicants} = \$15,000$). Although not specifically stated by the agency, the Division of the Budget assumes the additional revenue would cover the additional agency costs.

The Office of the Attorney General also notes that the bill would create a rebuttable presumption of negligence against any school district that does not authorize any CCH licensees for the SAFER endorsement. If a lawsuit were to be filed against the State of Kansas or an employee resulting from this section, the Office of the Attorney General would be responsible for defending that lawsuit. If that litigation would necessitate the agency for using outside counsel because of in-house caseloads, the estimated cost to defend such a lawsuit would be \$100,000 to \$500,000 over a one to three-year period, all from the State General Fund. If a potential lawsuit would be filed in state court, the case would likely be in litigation for at least one to three years. If a potential lawsuit would be filed in federal court, the case would likely be in litigation for at

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least one to three years with determinations made at the District Court and Tenth Circuit Court of Appeals levels. If a Petition for Certiorari to the U.S. Supreme Court were filed and accepted, the time frame would extend beyond three years. If a challenge is successful, the state would also have to pay the legal fees of a successful challenger, which would likely exceed \$500,000, all from the State General Fund.

The KBI notes that the agency currently maintains the “1-800-KS-CRIME” hotline that would be utilized for the SAFER schools hotline. Any additional infrastructure costs would be negligible; however, the KBI does not have an estimate of the number of calls to the SAFER schools hotline would be made. The agency notes that the Kansas Highway Patrol is currently partnered with the Department of Education in operating the Kansas Safe Schools Hotline. The agency does not know if both hotlines would be operating with the enactment of HB 2789.

The Kansas Insurance Department indicates that the enactment of the bill would have no fiscal effect on the agency. The section of the bill that would require no insurance company to charge unfair discriminatory premiums would be enforced under the Unfair Trade Practices Act. Any fiscal effect associated with HB 2789 is not reflected in *The FY 2019 Governor’s Budget Report*.

Sincerely,



Larry L. Campbell
Chief Budget Officer

cc: Dale Dennis, Education
Willie Prescott, Office of the Attorney General
Glenda Haverkamp, Insurance
Shelia Sawyer-Tyler, KBI
Dan Thimmesch, Health & Environment