

February 3, 2021

The Honorable Kellie Warren, Chairperson
Senate Committee on Judiciary
Statehouse, Room 441B-E
Topeka, Kansas 66612

Dear Senator Warren:

SUBJECT: Fiscal Note for SB 73 by Senator Holland

In accordance with KSA 75-3715a, the following fiscal note concerning SB 73 is respectfully submitted to your committee.

SB 73 would create the Corrupt Public Officer or Public Employee Reporting Act, also known as the Corrupt Reporting Act. The bill would allow a person to request an inquiry and investigation by the Attorney General, signed by the person under penalty of perjury, declaring that the person is or has been:

1. The victim of corruption committed by a public officer or public employee; or
2. A witness to corruption committed by a public officer or public employee.

If the Attorney General has reasonable grounds to believe that a crime has been committed as a result of this conduct based on the Attorney General's own inquiries or as a result of statements filed pursuant to the inquiry or investigation, the Attorney General must apply to a district judge to conduct an inquisition or petition for a state grand jury to be summoned. If the Attorney General is required to petition for a grand jury to be summoned, then the Attorney General would petition to the chief judge of any district court. The chief judge or their designee would then be required to order a grand jury to be summoned that has jurisdiction to investigate and indict for crimes committed anywhere in the state. The Attorney General would be required to make all statements filed publicly available on its official website, except personally identifiable information which would be redact.

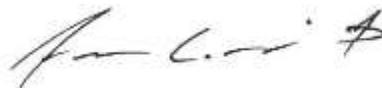
If SB 73 were enacted, the Office of the Attorney General states that it would expect to receive numerous complaints from citizens regarding local officials' actions or inactions. While it is likely that the amount of complaints that would rise to the level of a criminal act would be minimal, the Office would be required to review all the complaints, redact personal information, and post the information on its website.

In the event the Office of the Attorney General would be expected to prosecute charges resulting from inquisitions or grand jury proceedings, the agency would require a specialized prosecutor. In addition, the agency also states that the constitutionality of posting complaints made against public officials on a government website without allowing the public official to confront their accusers could be challenged in court. The state could face libel suites for posting these complaints. Depending on the workload of the Office's civil litigation attorneys, the need to retain outside counsel could arise. This litigation could last for several years and involve receiving a determination on the law's constitutionality.

The Office of the Attorney General estimates that the bill would increase its State General Fund expenditures by \$495,629 to \$595,629 in FY 2022 for 4.00 FTE positions and other operating costs. Of that amount, \$381,411 would be for salary and benefits for 1.00 Assistant Attorney General FTE position, 2.00 Special Agent FTE positions, and 1.00 Legal Assistant FTE position; annual costs of \$100,000 for outside counsel (if needed); and other operating costs of \$114,218 for office equipment, vehicles, computers and other related costs and supplies need to equip the new staff.

The Office of Judicial Administration indicates that SB 73 could create additional work for district court chief judges if they are requested to summon a grand jury or preside over an inquisition. Criminal cases could be filed with the district court if the grand jury or inquisition results in charges. However, the agency cannot estimate a fiscal effect at this time. Any fiscal effect associated with SB 73 is not reflected in *The FY 2022 Governor's Budget Report*. The Kansas Association of Counties indicates SB 73 could increase costs for counties associated costs associated with court proceedings, but a precise fiscal effect cannot be determined. The League of Kansas Municipalities indicates SB 73 could have a fiscal effect on cities related to requirements in the bill, but a fiscal effect cannot be estimated.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Willie Prescott, Office of the Attorney General
Debbie Thomas, Judiciary
Janelle Williams, Judicial Council
Wendi Stark, League of Municipalities
Jay Hall, Association of Counties