

April 13, 2015

The Honorable Steve Brunk, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Brunk:

SUBJECT: Fiscal Note for HB 2397 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2397 is respectfully submitted to your committee.

HB 2397 would enact the Unmanned Aerial Vehicle Regulation and Privacy Act, which would prohibit the operations of an unmanned aerial vehicle in Kansas with certain exemptions. An unmanned aerial vehicle could not be operated in Kansas that is capable of firing a bullet, projectile, laser, or otherwise being used as a weapon or avenue to inflict harm or damage to any person or property. Any person using an unmanned aerial vehicle would be required to fully comply with all applicable Federal Aviation Administration requirements.

The bill would allow the Kansas Army and Air National Guard and all other branches of the United States armed forces to conduct unmanned aerial vehicle operations as part of a mission or exercise in Kansas, as long as all regulatory requirements and directives of the operation are met. The bill specifies when an agency of a governmental entity could operate an unmanned aerial vehicle.

The use of an unmanned aerial vehicle to gather evidence or information that is not otherwise lawfully accessible in plain view would constitute a search. Any governmental entity that uses an unmanned aerial vehicle to gather evidence or obtain sensor data would be required to comply with the *United States Constitution* and the *Kansas Constitution*.

Any person aggrieved from the violations of these provisions could enjoin a violation or imminent violation of the Act; recover a civil penalty of \$5,000 for all images captured in a single episode; or \$10,000 for disclosure, display, distribution, or any other use of any images in

violation of the bill's provisions. Also, the person could recover actual damages if the person who caught the image disclosed, displayed, or distributed it with malice. A court could award costs and reasonable attorney fees to the prevailing party.

Incidental collection of information would be exempt from civil liability unless the data is retained or disclosed. The bill would make it a severity level 5, nonperson felony for any person who operates an unmanned aerial vehicle in violation of certain provisions specified in the bill. The Attorney General, in consultation with the Adjutant General, would be required to create a program of public information and education communicating to the public the benefits realized by the state through the operation of unmanned aerial vehicles, the technology used in unmanned aerial vehicles, and the steps taken to address private issue concerns. The information would be posted on the Attorney General's website.

The Office of Judicial Administration indicates enactment of HB 2397 could increase the number of cases filed in district court and the number of appeals relating to the use of information gathered by unmanned aerial vehicles, which would increase the time spent by district court and appellate court personnel in processing, researching, and hearing cases. Enactment of the bill could increase the collection of docket fees and civil penalties. Until the courts have had an opportunity to operate under the provisions of HB 2397 an accurate fiscal effect upon the Judicial Branch cannot be given.

The Kansas Sentencing Commission indicates passage of HB 2397 would have an effect on prison admissions and beds and the journal entry workload of the Commission; however, the Commission cannot estimate an accurate fiscal effect because there is no data on which to base an estimate at this time.

The Attorney General estimates State General Fund expenditures of \$80,928 in FY 2016 and future fiscal years, along with an additional 1.00 FTE position for the creation of the public information program required by the bill. Of the above amount, \$70,928 would be for salaries and wages for the additional FTE position and \$10,000 would be for other operating expenditures. Additionally, the Attorney General states there could be a potential that the constitutionality of HB 2397 could be challenged if the bill were passed. If a challenge were made, the agency may need to contract outside counsel because of the specialized nature of the bill's provisions and constitutional issues in defending the bill. The Adjutant General estimates additional State General Fund expenditures of \$75,000 in FY 2016 and future fiscal years, along with an additional 1.00 FTE position if the bill were enacted for the public information program that would be coordinated with the Attorney General. Of the above amount, \$65,000 would be for salaries and wages for the additional FTE position and \$10,000 would be for other operating expenditures.

The League of Kansas Municipalities states it is not possible to determine what, if any, fiscal effect enactment of HB 2397 would have upon Kansas cities. According to the Kansas Bureau of Investigation and the Kansas Highway Patrol, passage of HB 2397 would have no

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fiscal effect. Any fiscal effect associated with HB 2397 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Kim Torrey, Highway Patrol
Larry Baer, League of Municipalities
Shelia Sawyer-Tyler, KBI
Willie Prescott, Attorney General's Office
Cheri Froetschner, Adjutant General's Office
Mary Rinehart, Judiciary
Scott Schultz, Sentencing Commission
Adam Phannenstiel, Corrections