

March 13, 2019

The Honorable Jim Kelly, Chairperson
House Committee on Financial Institutions and Pensions
Statehouse, Room 581-W
Topeka, Kansas 66612

Dear Representative Kelly:

SUBJECT: Fiscal Note for HB 2322 by Representative Garber, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2322 is respectfully submitted to your committee.

HB 2322 would allow a social media user to sue a social media operator if the operator deletes or censors a user's religious or political speech. A parent or legal guardian of a social media user who is under the age of 18 would be allowed sue the social media operator on the behalf of the minor. The bill would also allow the Attorney General to sue on behalf of any social media user. Certain times when censorship would be allowable, as well as certain fines to be paid are identified in the bill.

The Office of the Attorney General indicates there would be a constitutional challenge to HB 2322. A constitutional challenge to the bill would have an effect on the Tort Claims Fund. A constitutional legal challenge could require the Office to procure outside counsel to assist in defending the bill in court. If the bill is ruled to be unconstitutional, the state would be liable to pay any monetary judgment against the state as well as the prevailing party's attorney fees. The Office also indicates that if social media users expect the Attorney General's Office to pursue these suits on the users' behalf, an additional Assistant Attorney General position would need to be hired. However, the Office cannot estimate the precise fiscal effect, including whether an additional Assistant Attorney General position would be necessary, because the number of suits that would be filed and litigation costs are unknown.

The Office of Judicial Administration indicates enactment of HB 2322 would have a fiscal effect on the courts. The bill would allow social media users to file suits in district courts which would increase time spent by judicial and nonjudicial personal processing, researching and hearing

cases. However, the Office cannot estimate the precise fiscal effect because the number of cases that would be brought before the courts is unknown. The Office also estimates enactment of the bill would increase revenues because courts would be able to collect additional docket fees. Any fiscal effect associated with HB 2322 is not reflected in *The FY 2020 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell". The signature is fluid and cursive, with a large initial "L" and a long, sweeping underline.

Larry L. Campbell
Director of the Budget

cc: Willie Prescott, Office of the Attorney General
Janie Harris, Judiciary
Chardae Caine, League of Municipalities
Jay Hall, Association of Counties