

March 11, 2024

The Honorable Nick Hoheisel, Chairperson
House Committee on Financial Institutions and Pensions
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Hoheisel:

SUBJECT: Fiscal Note for HB 2722 by House Committee on Financial Institutions and Pensions

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2722 is respectfully submitted to your committee.

HB 2722 would enact the Second Amendment Financial Privacy Act that would prohibit financial institutions from using a firearms code to engage in certain discriminatory conduct and surveilling. The bill would prohibit the misuse of payment card processing systems to surveil, report, or otherwise discourage constitutionally protected firearm and ammunition purchases within the state. The bill would prohibit a governmental entity or person from knowingly and intentionally keeping a list, record, or registry of privately owned firearms or owners of the firearms. A financial institution would be prohibited from requiring the usage of the firearms code in a way that distinguishes a firearms retailer located in Kansas from general merchandise retailers or sporting goods retailers in the state. The bill would list ways a financial institution would be prohibited from discriminating against a firearms retailer.

The Attorney General would investigate alleged violations of the Act and if a violation is found, provide written notice to any individual or entity believed to be in violation. The individual or entity would have 30 days to cease from the violation. A firearms retailer physically located in Kansas whose business is the subject of an alleged violation would be permitted to petition the Attorney General to investigate the alleged violation. If an individual or entity found to be in violation of the Act fails to cease such violation within 30 days, the Attorney General would file an injunction in the judicial district where the violation occurred. If the court found the individual or entity continues to be in violation of the act 30 days after receipt of written notice, the court would order the individual or entity from use of the firearms code. If a credit card company violates the injunction, the court would impose a civil penalty of up to \$10,000 per violation of the injunction. The bill would also allow the Attorney General or petitioner who prevails to recover reasonable expenses including court costs, reasonable attorney fees, investigative costs, witness fees, and deposition expenses. It would not be a defense to an action under the Act that disclosure

of protected financial information is to a federal governmental entity unless such disclosure is made based on a good faith belief that such disclosure is required by federal law or regulation.

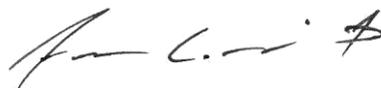
The Office of the Attorney General indicates, under HB 2722, the agency would expend \$170,000 in FY 2025 and \$187,000 in FY 2026 from the State General Fund to hire 1.00 Investigator FTE position, a 0.50 Attorney FTE position, and related operating costs. In addition, the agency indicates the subject of the bill is a frequently litigated topic; however, the agency is unable to estimate the cost of the litigation.

The Department of Credit Unions reports that HB 2722 would require an additional topic to review on credit union examinations for the agency's financial examiners. The review would consist of policies and transactional reports, requiring an hour of staff time per examination. At an average hourly rate of \$33 per examination of 46 credit unions, the agency would incur \$1,518 ($\$33 \times 1 \text{ hour} \times 46 \text{ exams}$) in examination costs from agency fee funds, which would be absorbed within existing resources. The Office of the State Bank Commissioner states HB 2722 would not have fiscal effect on the agency's operations.

The Office of Judicial Administration indicates HB 2722 could increase the number of cases filed in district courts because it allows for a court action to be filed, which would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. The bill could also result in the collection of docket fees and civil penalties that would be deposited into the State General Fund. However, the agency cannot estimate the overall fiscal effect of the bill. Any fiscal effect associated with HB 2722 is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties indicates HB 2722 would not have fiscal effect. The League of Kansas Municipalities indicates HB 2722 would have a fiscal effect on cities if a case is filed in municipal court. However, the League is unable to estimate a precise fiscal effect on cities.

Sincerely,



Adam C. Proffitt
Director of the Budget

cc: Trisha Morrow, Judiciary
William Hendrix, Office of the Attorney General
Julie Murray, Department of Credit Unions
Jay Hall, Kansas Association of Counties
Wendi Stark, League of Kansas Municipalities
Barbara Albright, Office of the State Bank Commissioner