

February 15, 2017

The Honorable Jacob LaTurner, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator LaTurner:

SUBJECT: Fiscal Note for SB 158 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 158 is respectfully submitted to your committee.

SB 158 would prohibit state agencies and municipalities from adopting a “sanctuary policy,” as defined in the bill. Municipalities that adopt sanctuary policies would be ineligible to receive any state funding. Complaints of any violations of the bill’s provisions may be submitted to the Office of the Attorney General by any Kansas resident. Also, any member of the Legislature may request the Attorney General to investigate and issue an opinion whether a municipality has enacted a sanctuary policy.

Upon request by a city or county, the Attorney General must defend any city or county that is a defendant in litigation as a result of enforcing federal immigration laws. The bill specifies that all costs incurred by the Office of the Attorney General defending a city or county would be paid by the State General Fund. Cities or counties that incur liabilities from enforcing federal immigration laws may seek reimbursement by filing a claim against the state.

The Office of the Attorney General estimates the costs for implementing the bill could range from \$251,032 to \$326,032 from the State General Fund in FY 2018 and FY 2019. The total amount includes \$83,532 to hire a new Assistant Attorney General plus related expenses of \$17,500 for workstation setup, travel and other costs. The new hire would fill an existing position.

The Office would also incur costs from using outside counsel. Outside counsel would be needed for cases in which the Office has to defend itself or another agency from a municipality that has sanctuary policies. Since the Attorney General’s Office would be responsible for investigating and determining if a municipality enacted sanctuary policies, the Office would most likely be named as one of the defendant parties to any legal action by the affected municipality. The agency notes that there could be implications of constitutional issues, which

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may result in litigation proceeding to the appellate level in either state or federal court. This scenario would entail a multi-year and costly process. The Office estimates costs of defending the Office or other state agencies would be a minimum of \$50,000 to \$75,000 per year. This expense would be ongoing until a ruling is issued.

Outside counsel would also have to be used for cases in which the Attorney General's Office is required to defend a city or county for enforcing federal immigration laws. Again, this would include multi-year litigation for each case. The Office estimates that defending cities and counties would require a minimum of \$100,000 to \$150,000 per year. This estimate assumes that there would be two cases initially at a cost of \$50,000 to \$75,000 per case. The costs would be incurred for the next three fiscal years. If the action were to occur in federal court, the trial and appeal process could extend to five years. The fiscal effect estimates are based on two suits initially.

Local governments could incur additional expenditures from any additional law enforcement efforts that may be required and from holding individuals who might be arrested and held under the bill. However, expenditures by local governments related to enforcing federal immigration laws could be reimbursed by the state through the state claims process. There may also be additional costs related to litigation and providing documents and information for any investigations by the Attorney General. Also, local governments could lose funding from the state if it is found that a municipality adopted a sanctuary policy. However, the total fiscal effect for local governments cannot be estimated. According to *The FY 2018 Governor's Budget Report*, \$5.0 billion from all funds, including \$3.2 billion from the State General Fund, is budgeted for statewide aid to local government expenditures in FY 2018 and FY 2019. Any fiscal effect associated with SB 158 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,



Shawn Sullivan,
Director of the Budget

cc: Willie Prescott, Office of the Attorney General
Melissa Wangemann, Association of Counties
Brock Ingmire, League of Municipalities