

February 5, 2018

REVISED

The Honorable Carolyn McGinn, Chairperson
Senate Committee on Ways and Means
Statehouse, Room 545-S
Topeka, Kansas 66612

Dear Senator McGinn:

SUBJECT: Revised Fiscal Note for SB 342 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 342 is respectfully submitted to your committee.

SB 342 would establish the Kansas Cybersecurity Act. The bill would create the Kansas Information Security Office (KISO) which would be administered by the executive branch Chief Information Security Officer (CISO), a new position created by the bill. The CISO would be appointed by and report to the Governor. The CISO would serve as the Executive Branch chief cybersecurity strategist and authority on policies, compliance, procedures, guidance and technologies impacting Executive Branch agency cybersecurity programs. The CISO would also ensure cybersecurity training programs are provided for Executive Branch agencies and coordinate cybersecurity efforts among governmental entities at the state and municipality level and private vendors. The bill would define "governmental entity" to mean any department, division, bureau, commission, regional planning agency, board, district, authority, agency or other instrumentality of this state that acquires, maintains, stores or uses data in electronic form containing personal information.

The Kansas Information Security Office would be considered a separate agency for budgeting purposes. Some of the CISO's responsibilities would include:

1. Administer the Kansas Cybersecurity Act;
2. Assist in developing, implementing and monitoring strategic and comprehensive information security risk-management programs;
3. Provide strategic risk guidance for information technology projects;
4. Ensure that security programs are following relevant laws, rules, regulations and policies;

5. Develop metrics to measure the efficiency and effectiveness of state information security programs;
6. Coordinate resources involved in information security program including negotiating contracts;
7. Assist in the development of effective disaster recovery policies and standards; and
8. Coordinate information technology interests at all levels of government.

The bill would identify the requirements and responsibilities of state agency heads for implementing and maintaining information security programs. Agencies would be required to submit a cybersecurity assessment report to the CISO on October 16 of each even-numbered year. Agency heads would also be required to participate in annual cybersecurity training and notify the CISO of any actual or suspected data breach or exposure within 48 hours. The bill would require the Secretary of State to be notified if the breach involved election data.

All governmental and non-governmental entities connecting to state network resources would be required to demonstrate cybersecurity effectiveness. The CISO may require employees or contractors of governmental entities whose duties include collection, maintenance or access to personal information to be fingerprinted and submit to a background check every five years. The bill would require the fingerprints and background checks to be submitted to the Kansas Bureau of Investigation (KBI) and the Federal Bureau of Investigation. The bill would also require local law enforcement officers and agencies to assist with taking and processing of fingerprints. Local law enforcement agencies would be authorized to charge a fee for reimbursement of expenses associated with taking and processing fingerprints.

The bill would create the Cybersecurity State Fund. To finance the fund, the bill would impose an annual basic cybersecurity service rate per employee for all governmental and non-governmental entities connecting to state network services. The rate could not exceed \$700 per employee per year. Collection of payments would begin on July 1, 2020. The bill would allow governmental entities to pay for cybersecurity services from existing budgets, from grants or other revenues, or through special assessments to offset costs associated with the rate.

The Office of Information Technology Services (OITS) indicates that the intention of this bill is not to charge state agencies higher fees than are currently being charged. According to OITS, the agency currently administers \$5.7 million annually for cybersecurity technology and staff. Cybersecurity revenues are collected by and comingled within OITS in the form of various rates charged to agencies. It is OITS intent to move the cybersecurity portion of the existing fees into an exclusive cybersecurity rate and separate those fees that are charged for cybersecurity services from all other fees charged for OITS services. Based on how OITS intends to carry out this bill, the agency estimates it would need to charge agencies \$314.68 per employee per year to maintain the current level of cybersecurity funding. Their estimate uses a March 2017 employee count of 18,199. Information from OITS was not included in the original fiscal note.

Based on the language in the bill, the fiscal effect from implementing a new cybersecurity service rate cannot be estimated at this time because statewide data regarding the number of non-

governmental employees who would be subject to the new rate is not currently available. According to the *FY 2019 Governor's Budget Report*, there are 19,466.45 positions budgeted for FY 2019, excluding the Board of Regents, the universities, the Judicial Branch and the Legislative Branch. Using this position count, the Division of the Budget estimates the bill could cost as much as \$13.6 million annually from all funding sources. If Board of Regents, university, Judicial Branch and Legislative Branch positions are included, the total cost for SB 342 could increase to \$28.0 million (700 x 40,087.22 total budgeted statewide positions for FY 2019). The number of positions in both scenarios excludes temporary positions and contractor staff. In any case, it is unclear whether all agencies would be able to pay for the additional charges using existing resources. Fiscal effects for certain agencies are described below.

The Kansas Department for Aging and Disability Services (KDADS) estimates the bill would cost the agency \$1.6 million annually, including \$1.3 million from the State General Fund. This estimate assumes an employee count of 2,288 positions.

The Department for Children and Families estimates the bill would require additional expenditures of \$1.7 million annually, including about \$1.0 million from the State General Fund. The Department's estimate assumes an employee count of 2,483 positions excluding temporary, interns, contractors and provider staff. It also assumes a State General Fund share of 54.47 percent.

The Kansas Department of Health and Environment (KDHE) states that costs resulting from the bill could range between \$1,317,100 and \$1,367,100. These figures include \$1,017,100 for the cybersecurity fee and \$300,000 to \$350,000 to hire a cybersecurity coordinator and related staff to comply with the security program requirements in the bill. The amount for the cybersecurity fee assumes a budgeted headcount of 1,253 employees plus 200 contract associates. KDHE indicates that it is unlikely the agency would be able to handle the costs within its current budget. The agency indicates that all existing revenues are already committed, and it is unlikely new grant funding would be available to cover the cybersecurity fee. Information from KDHE was not included in the original fiscal note.

The Department of Corrections estimates the fiscal effect of the bill on the corrections system could be as much as \$5.7 million per year. The Department indicates that it would not be able to absorb these costs within its current budget without making reductions to programs. Additional appropriations from the State General Fund would be needed.

The Kansas Highway Patrol (KHP) estimates the bill could require annual expenditures of \$574,700 to \$616,000, depending on the types of positions used to calculate the cybersecurity fee. It is possible KHP could be affected by the provision of the bill requiring state law enforcement agencies to assist with processing of fingerprints of employees or contractors; however, the fiscal effect is unknown. KHP indicates that there are no additional funds available to pay for the added costs. Information from KHP was not included in the original fiscal note.

The Kansas Bureau of Investigation estimates the bill could result in additional fingerprint and background checks performed by the agency, which would increase revenue. However, the KBI indicates the fiscal effect cannot be determined because the number of employees or contractors of governmental entities that would be required to submit to criminal history checks is

unknown. The agency notes that the current fee for processing a fingerprint-based record check is \$47 per request. The KBI could also incur additional expenditures from the bill but the agency is unable to estimate those expenses.

The Department of Agriculture estimates the bill could cost the agency up to \$280,000 per year. Additionally, the agency may incur expenses to meeting security program requirements.

The Kansas Department of Transportation (KDOT) estimates the bill would require \$1.7 million in additional expenditures per year for the cybersecurity service rate. This figure assumes an employee count of 2,360, which is the number of employees for FY 2019 in the Department's budget. KDOT also anticipates that part of the increase in expenses would come from higher contractor costs if they pass along any charges incurred because of SB 342. The Department states that it would need the expenditure limitation on its agency operations account to be increased by \$1.7 million. The original fiscal note did not clarify KDOT's fiscal effect.

The Kansas Association of Counties indicates there may be a fiscal effect for local law enforcement offices that are required to assist with obtaining employee fingerprints. If it is assumed that all governmental entities, including local governments, are required to pay the cybersecurity service rate for connecting to state network resources, the League of Kansas Municipalities indicates there would be a fiscal effect for cities. However, the fiscal effect for local governments is unknown. Information from the League was not included in the original fiscal note. Any fiscal effect associated with SB 342 is not reflected in *The FY 2019 Governor's Budget Report*.

Sincerely,



Shawn Sullivan,
Director of the Budget

cc: Dale Dennis, Education
Linda Kelly, Corrections
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