

February 27, 2023

REVISED

The Honorable Ken Corbet, Chairperson
House Committee on Agriculture and Natural Resources Budget
300 SW 10th Avenue, Room 118-N
Topeka, Kansas 66612

Dear Representative Corbet:

SUBJECT: Revised Fiscal Note for HB 2386 by House Committee on Agriculture and Natural Resources Budget

In accordance with KSA 75-3715a, the following revised fiscal note concerning HB 2386 is respectfully submitted to your committee.

HB 2386 would prohibit government officials and employees of any state agency, county, or city to enter or remain on private property unless:

1. Authorized by a lawfully issued search warrant, court order, subpoena, or the Constitution of the United States; or
2. The owner of the property has given written consent.

These provisions would not apply to a law enforcement officer during the course of the officer's duty.

The Kansas Department of Agriculture indicates the enactment of HB 2386 would increase its expenditures by \$167,000 from the State General Fund in FY 2024, including \$70,000 for 1.00 Attorney FTE position and \$45,000 for 1.00 Legal Assistant FTE position and the remaining amount for benefits and health insurance for both positions. The Department indicates the positions would be needed to judiciously and timely obtain written consent or search warrants to carry out the statutory authority of its regulatory programs.

The Department of Wildlife & Parks indicates its daily responsibilities involve work with private landowners on many conservation-related projects and numerous regulatory functions on private land. The enactment of HB 2386 would increase the Department's expenditures by \$77,000 from all funding sources in FY 2023 to develop and implement a landowner permission database. The Department indicates the bill would increase its expenditures by \$322,874 from all funding sources in FY 2024 to hire an additional 6.00 FTE administrative staff positions who will administer the database, including overseeing landowner permission status and updating landowner permission information.

The Kansas Corporation Commission (KCC) indicates the enactment of HB 2386 would conflict with its current statutory ingress and egress rights to inspect, investigate, and take emergency action to remediate. The KCC is unable to provide a fiscal effect estimate but indicates the requirement to obtain written consent prior to investigating or responding to environmental issues would delay investigations resulting in higher investigative costs, more expensive remediation, additional staff time, and possibly require more administrative positions.

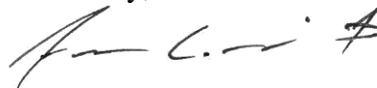
The Kansas Department of Health and Environment (KDHE) indicates the enactment of HB 2386 would increase expenditures for the Division of Environment by \$885,042 from the State General Fund in FY 2024 for 14.00 FTE positions. The estimate includes \$309,936 for salaries and wages expenditures for 6.00 FTE administrative positions and \$85,800 for 1.00 FTE Attorney that would be needed to evaluate permits and determine whether written consent has been granted and, when required, to conduct permit revisions and obtain supplemental documentation for written consent to allow inspections to continue. The estimate also includes \$403,506 for salaries and wages expenditures for 6.00 FTE Field Inspectors and \$85,800 for 1.00 FTE Attorney that would be needed to prepare and obtain search warrants to inspect unpermitted locations and operations. The Division of Environment indicates that if its inspection and surveillance action decreased from to this bill, this could trigger review of the agency's delegations from the Environmental Protection Agency (EPA) and, potentially, the withdrawal of EPA authority and funding amounting to approximately \$150.0 million in federal funding and over 150.00 FTE positions.

KDHE indicates the enactment of HB 2386 would also require the Division of Public Health's Radiation Control Program to obtain search warrants or court orders to conduct inspections of facilities with hazardous or toxic chemicals or radioactive materials; however, any additional costs would be negligible and could be absorbed within existing resources.

The Kansas Department of Revenue indicates the enactment of HB 2386 would increase its expenditures for salaries and wages by \$148,552 for 2.00 FTE Warrant Execution Agent positions to additional court filings and resources to enforce actions related to collections of delinquent taxes.

The Kansas Association of Counties, League of Municipalities and Kansas Department of Administration indicate the enactment of HB 2386 would have no fiscal effect. Any fiscal effect associated with HB 2386 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Jay Hall, Kansas Association of Counties
Wendi Stark, League of Kansas Municipalities
Tamara Emery, Department of Administration
Kellen Liebsch, Department of Agriculture
Peter Barstad, Kansas Corporation Commission
Terry Bruce, Department of Wildlife & Parks
Amy Penrod, Department of Health & Environment