

March 1, 2023

The Honorable Fred Patton, Chairperson  
House Committee on Judiciary  
300 SW 10th Avenue, Room 582-N  
Topeka, Kansas 66612

Dear Representative Patton:

**SUBJECT:** Fiscal Note for HB 2396 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2396 is respectfully submitted to your committee.

HB 2396 would make changes to the Kansas Standard Asset Seizure and Forfeiture Act. The bill would require a felony conviction before forfeiture of property would be allowed. The bill would allow a person whose property was seized to petition the court to determine if the forfeiture is unconstitutionally excessive. A plaintiff's attorney would have the burden of proving beyond a reasonable doubt that the forfeiture is proportional to the seriousness of the offense.

The bill would require any sale proceeds to be deposited into the State General Fund. The bill would delete the current distribution of forfeiture funds, which includes state agencies and local governments involved in the forfeiture process. The bill would clarify that the Kansas Bureau of Investigation (KBI) would allow public access to all reports in the asset seizure and forfeiture repository. Currently, state and local law enforcement agencies submit a report to the KBI for the repository once a year, which would be audited by the KBI. The bill would change the reporting requirement to quarterly based on the calendar year.

The KBI states that the last five years the agency had 18 federal and nine state forfeitures totaling \$335,515. Currently, the KBI uses forfeiture revenues to lease a storage facility and maintain special use vehicles at a cost of approximately \$60,000 per year. These costs will be ongoing, and if the balance in the forfeiture funds is depleted the agency would request a State General Fund appropriation for this.

The KBI states that it currently has 1.00 Program Consultant that performs the reporting, compliance, training, contacting agencies, and completing Legislative requirements for the asset

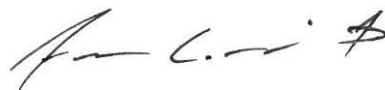
seizure and forfeiture repository. Because the bill requires more frequent reporting and compliance verification, the KBI would require 2.00 Administrative Officer FTE positions at a cost of \$120,207 from the State General Fund in FY 2024. Of that amount, \$112,207 would be for salaries and wages and \$8,000 would be for operating expenditures.

The Kansas Highway Patrol states that the average expenditures from the forfeiture monies have been \$437,240 and are used to support the mission of the Special Operations Units. Since FY 2015, the agency has received \$6.4 million in revenues from state forfeiture and expended \$3.4 million. Absent the ability to use funding from seizures, the agency would be forced to look for other sources of funding to supplement the reduction in revenues. Furthermore, the requirement that forfeiture could only happen after a felony conviction could lengthen the time the agency holds property waiting for a trial, conviction, and acquittal to occur.

The Office of the Attorney General states that this bill would lead to an unknown amount of reduced revenue and increased costs to its agency. The Judicial Branch indicates that bill could have a negligible fiscal effect on its operations that could be absorbed within existing resources. Any fiscal effect associated with HB 2396 is not reflected in *The FY 2024 Governor's Budget Report*.

The League of Kansas Municipalities indicates that the bill could increase expenditures if cities are required to assist with the implementation and enforcement of bill. However, the League is unable to estimate an amount. The Kansas Association of Counties states that the bill could have a fiscal effect on county expenditures and revenues since processes and procedures would change, but the fiscal effect cannot be estimated.

Sincerely,



Adam Proffitt  
Director of the Budget

cc: Vicki Jacobsen, Judiciary  
Wendi Stark, League of Kansas Municipalities  
Jay Hall, Kansas Association of Counties  
Paul Weisgerber, Kansas Bureau of Investigation  
Sherry Macke, Highway Patrol  
Randy Bowman, Department of Corrections  
John Milburn, Office of the Attorney General  
Michael Neth, Office of the Adjutant General