

February 28, 2024

The Honorable Will Carpenter, Chairperson
House Committee on Federal and State Affairs
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Representative Carpenter:

SUBJECT: Fiscal Note for HB 2807 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2807 is respectfully submitted to your committee.

HB 2807 would provide for the appointment of delegates to a convention under Article V of the *Constitution of the United States*, along with the duties and responsibilities of the delegates. Whenever an Article V convention would be called, the Kansas delegates to the convention would be appointed by the following: the Speaker and Speaker Pro Tem of the House of Representatives would each appoint one delegate and one alternate delegate; the President and the Vice President of the Senate would each appoint one delegate and one alternate delegate; the majority party caucus of the House of Representatives would appoint two delegates and two alternate delegates; the majority party caucus of the Senate would appoint one delegate and one alternate delegate; the Minority Leader of the House of Representatives and the Minority Leader of the Senate would each appoint one delegate and one alternate delegate; and the minority party caucus of the House of Representatives the Senate would each appoint one delegate and one alternate delegate.

All delegates and alternate delegates appointed would be elected or appointed and qualified to serve as members of the Kansas Legislature at the time of appointment. The term for each delegate and alternate delegate appointed would begin with the call of the Article V convention and end on the day of the final adjournment of the convention, unless the delegate is recalled. Each delegate may be recalled by the appointing authority for the delegate. The Legislature also may recall any delegate by adoption of a concurrent resolution by a majority of the members of both houses. Any delegate that is recalled would be replaced by the alternate delegate appointed by the same appointing authority of the recalled delegate. When an alternate delegate is appointed as a delegate, the appointing authority would appoint a new alternate delegate.

Any vacancy in the delegation would be filled by the alternate delegate appointed by the same appointing authority of the delegate whose position becomes vacant. When an alternate delegate is appointed as a delegate, the appointing authority would appoint a new alternate delegate. Alternate delegates could not travel to or attend the Article V convention unless named as a delegate to fill a vacancy in a delegate position. The Secretary of State would certify in writing

to the Article V convention the identity of the delegates appointed or recalled and the filling of any delegation vacancy.

Each delegate and alternate delegate would reaffirm an oath to support the *Constitution of the United States* and the *Constitution of the State of Kansas* and would faithfully abide by and execute any instructions to delegates and alternate delegates adopted by the Legislature. The delegate appointed by the Speaker of the House of Representatives would be the chairperson of the delegation and the delegate appointed by the President of the Senate would be the vice chairperson of the delegation. Only the chairperson, or the vice chairperson if the chairperson were unavailable, may cast a vote for the delegation at an Article V convention. Any vote cast for the delegation would be approved by a majority of the delegates prior to the vote being cast.

No delegate would consider or vote for any unauthorized amendment. A vote cast by the delegation on an unauthorized amendment or on any other measure that is outside the scope of the limits placed by the Article V application, or any instructions provided by the Legislature would be void. A vote cast by the delegation that was not approved by a majority of the delegation would be void. Delegates would be authorized to propose or negotiate proposed rules for an Article V convention and proposed constitutional amendments. The delegation would vote or otherwise act with respect to any proposed rules or constitutional amendments in accordance with any concurrent resolution adopted by the Legislature.

It would be a violation for any delegate to vote in favor of an unauthorized amendment. A violation would be deemed to have occurred regardless of whether the delegation as a whole cast a vote in favor of an unauthorized amendment. The violation would constitute grounds for immediate recall of the delegate. The Legislative Coordinating Council (LCC) would review allegations of a violation and may provide a written recommendation to the Attorney General for further investigation and possible prosecution of any violation. A violation would be a severity level 6, nonperson felony.

The Revisor of Statutes, or designee, would attend the Article V convention and serve as legal counsel for the delegates for negotiations on any proposed rules or constitutional amendments. The Chief Clerk of the House of the Representatives, or designee, and the Secretary of the Senate, or designee, would attend the Article V convention and would prepare daily reports on the sessions of the convention and the meetings of the delegation. The reports would be submitted each day to the members of the Legislature.

The delegation appointed would be considered the voice of the Legislature at an Article V convention. The Legislature may provide instructions to the delegates at any time by adoption of a concurrent resolution by a majority of the members of both houses. During an Article V convention, the chairperson of the delegation would maintain regular communication with legislative leadership and others, as required by a concurrent resolution. Members of the delegation would be paid for expenses, mileage, and subsistence expenditures.

To illustrate a fiscal effect of the enactment of HB 2807, Legislative Administrative Services (LAS) uses an example for an Article V convention that would be called in FY 2025 for four days. However, it is not currently known if a convention would be called in FY 2025. LAS would also assume the LCC would approve reimbursement for all eleven delegates and three named staff in the bill. LAS estimates the total cost of the convention for legislators and staff

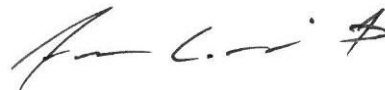
totaling \$48,323 from the State General Fund, with the following estimates: flight expenses—\$10,500 (\$750 airfare X 14 legislators and staff = \$10,500); hotel expenses—\$16,800 (\$300 nightly rate X 4 days X 14 legislators and staff = \$16,800); meal expenses—\$4,760 (\$85 X 4 days X 14 legislators and staff = \$4,760); mileage expenses—\$2,814 (\$0.67 per mile X 300 average miles X 14 legislators and staff = \$2,814); miscellaneous expense—\$4,200 (\$300 X 14 legislators and staff = \$4,200); salary expense—\$7,568 (\$172 per day X 4 days X 11 legislators = \$7,568); fringe benefits—\$1,681 (\$7,568 salary of legislators X 22.217 percent = \$1,681).

The Kansas Sentencing Commission notes that the enactment of the bill would add circumstances for potential violations that would be a severity level 6, nonperson felony, which could lead to arrests and convictions. However, any convictions for a severity level 6, nonperson felony would likely result in probation. As a result, the Kansas Sentencing Commission and the Department of Corrections report that any effect on prison admissions from any violations of the bill would be negligible.

The Secretary of State indicates that the agency would utilize its existing resources to implement provisions of the bill and the enactment of the bill would not have a fiscal effect. The Attorney General indicates that any new investigative or prosecutorial responsibilities resulting from the enactment of the bill would be performed within the agency's current workload. However, there would be a likelihood that provisions of the bill would be challenged in court. The agency cannot estimate the fiscal effect for the resources required from legal challenges.

HB 2807 would have the potential for increasing litigation in the courts because of the new felony violation created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to estimate the number of additional court cases that would arise or how complex and time-consuming they would be; as a result, a fiscal effect cannot be estimated. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources. The enactment of the bill could result in the collection of supervision fees in cases filed, as well as the increased collection of docket fees and supervision fees in those cases filed under the provisions of the bill, which would be deposited in the State General Fund. However, any estimate of additional revenues cannot be made. Any fiscal effect associated with HB 2807 is not reflected in *The FY 2025 Governor's Budget Report*.

Sincerely,



Adam C. Proffitt
Director of the Budget

cc: Tom Day, Legislative Services
Scott Schultz, Kansas Sentencing Commission
Jennifer King, Department of Corrections
William Hendrix, Office of the Attorney General
Sandy Tompkins, Office of the Secretary of State