

February 14, 2011

The Honorable Tim Owens, Chairperson
Senate Committee on Judiciary
Statehouse, Room 559-S
Topeka, Kansas 66612

Dear Senator Owens:

SUBJECT: Fiscal Note for SB 135 by Senators Petersen and Schodorf

In accordance with KSA 75-3715a, the following fiscal note concerning SB 135 is respectfully submitted to your committee.

SB 135 would enact the Kansas Racketeer Influenced and Corrupt Organization Act (Kansas RICO Act). The bill would make it a crime to commit, attempt to commit, conspire to commit, to solicit, coerce or intimidate another person to commit certain crimes detailed in the bill. Violations or conspiracy to commit a violation would be a severity level 2, person felony. Calculating the duration of time between incidences that is used to show a pattern of racketeering activity would exclude imprisonment time. A person convicted under the Kansas RICO Act could be sentenced to pay a fine not to exceed three times the gross value gained or three times the gross loss caused to another person, whichever is greater. In addition, a person convicted would be ordered to pay court, investigation, and prosecution costs. The court could also impose other restrictions upon the convicted person. A person arrested and charged for a crime of racketeering activity would have bail set at \$50,000 unless the court finds the person is not likely to re-offend, an appropriate intensive pretrial supervision program is available, and the person agrees to comply with the mandate of the pretrial supervision. The bill would also add extortion and racketeering in cases where forfeiture could occur.

SB 135 has the potential for increasing litigation in the courts because of the new crime 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 predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. 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 Kansas Sentencing Commission estimates that passage of SB 135 would result in no additional beds in FY 2012 and an increase of one to three adult prison beds by FY 2013. Currently, the number of male inmates exceeds the available bed capacity of 8,259, and based

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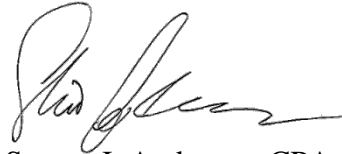
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upon the Kansas Sentencing Commission projections, it is estimated that at the end of FY 2011 and FY 2012, the number of male inmates will exceed available capacity by 235 beds and 394 beds, respectively. To address capacity issues, the Governor's recommended FY 2012 budget includes \$2.5 million for contract prison beds. If it is determined that facility construction is necessary, the Department of Corrections has identified two capacity expansion projects: two high medium security housing units at El Dorado Correctional Facility that would provide 512 beds with a construction cost of \$22,687,232 (\$44,311 per bed X 512) and operating costs of \$9,339,904 (\$18,242 per bed X 512); and one minimum security housing unit at Ellsworth Correctional Facility that would provide 100 beds with a construction cost of \$5,935,000 (\$59,350 per bed X 100) and operating costs of \$1,832,000 (\$18,320 per bed X 100).

Any capacity needed beyond the options outlined above could require additional contract or construction costs. The actual construction costs would depend upon the security level of the beds to be constructed and when construction is actually undertaken, while the actual operating costs would depend upon the base salary amounts, fringe benefit rates, per meal costs, per capita health care costs, and other cost factors applicable at the time the additional capacity is occupied. Likewise, any further prison commitments that result in additional parolees could require additional staff and resources so that the additional parolees can be effectively supervised. Any fiscal effect associated with SB 135 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,



Steven J. Anderson, CPA, MBA
Director of the Budget

cc: Megan Pinegar, Attorney General's Office
Mary Rinehart, Judiciary
Jeremy Barclay, KDOC
Brenda Harmon, Sentencing