

May 6, 2016

The Honorable Janice Pauls, Chairperson
House Committee on Federal and State Affairs
Statehouse, Room 285-N
Topeka, Kansas 66612

Dear Representative Pauls:

SUBJECT: Fiscal Note for HB 2737 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2737 is respectfully submitted to your committee.

HB 2737 would create the student physical privacy act that would provide for the privacy needs of all students in public schools and postsecondary education institutions in Kansas. The bill would require every public school and postsecondary educational institution restroom, locker room, and shower room accessible by multiple students at the same time to be designated for use by male students only or female students only. All student restrooms and locker rooms that are designated for one sex could only be used by members of that sex. Any other facility where a student may be in a state of undress in the presence of other students, school or institution personnel would be required to provide separate, private areas designed for use by students based on sex.

Students that would desire greater privacy when using a public school or postsecondary educational institution restroom or locker room, and whose parents or legal guardians provide written consent to school or institution officials, may submit a request to school officials for access to alternative facilities.

Students aggrieved under the bill may obtain relief, including statutory damages of \$2,500 for each instance in which the aggrieved student encountered a person of the opposite sex while accessing a public school or postsecondary educational institution student restroom or locker room designated for use by the aggrieved student's sex, including attorney fees and court costs.

The Office of the Attorney General, enactment of HB 2737 would likely result in constitutional legal challenges. Depending on the agency's workload, the challenges could either be handled in house or sent to outside counsel. If outside counsel would be required, additional expenditures of up to \$200,000 may be required, all from the State General Fund. Any state

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court action would ultimately be determined by the Kansas Supreme Court and any Federal court action would at a minimum be taken to the United States Court of Appeals for the Tenth Circuit.

The Kansas Department of Education indicates that enactment of the bill would have no fiscal effect on the agency. However, school districts would be required to be in compliance with the bill. The Department did not provide a fiscal effect estimate for school districts.

The Judicial Branch and the Kansas Board of Regents have been contacted regarding the fiscal effect of HB 2737. At this time, the Division of the Budget is unable to estimate any fiscal effect for these agencies resulting from the passage of the bill. If further information regarding the fiscal effect of the bill is received by the Division of the Budget, a revised fiscal note will be issued. Any fiscal effect associated with HB 2737 is not reflected in *The FY 2017 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a horizontal line extending to the right.

Shawn Sullivan,
Director of the Budget

cc: Kelly Oliver, Board of Regents
Dale Dennis, Education
Ashley Michaelis, Judiciary
Willie Prescott, Attorney General's Office