

February 25, 2013

The Honorable Ralph Ostmeyer, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator Ostmeyer:

SUBJECT: Fiscal Note for SB 140 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 140 is respectfully submitted to your committee.

SB 140 would require the Attorney General to certify that no official or agency of the government has adopted a policy that restricts enforcement of federal immigration laws. If they do, they would not be eligible to receive any funding from the state until the Attorney General has certified that the violation has stopped. Authorized law enforcement, when reasonable suspicion exists that a person is an alien, may attempt to determine the individual's immigration status. Any person taken into custody must have his or her immigration status determined before release. The bill requires federal immigration agencies to be notified of an illegal alien convicted of a crime or ordinance violation. The Attorney General would be required to enter into a cooperative agreement with the U.S. Department of Homeland Security to designate law enforcement officers who would be qualified to enforce immigration laws. No court would be able to enforce a contract entered into with an illegal alien. SB 140 would also prohibit illegal immigrants from receiving public benefits, such as education, emergency health care, emergency assistance, and protection of life and safety. Verification for public benefits would have to be made through the Systematic Alien Verification for Entitlements system, maintained by the U.S. Department of Homeland Security. If a person is in the country illegally, he or she would be considered a flight risk.

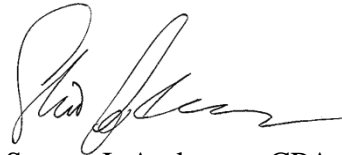
The Kansas Department of Children and Families currently follows the requirements laid out in the bill; therefore, enactment of SB 140 would have no fiscal effect.

The Office of Judicial Administration states that the passage of SB 140 would require court personnel to determine whether or not a contract is valid based upon alien verification status before enforcing any contract. Currently, information regarding an offender's citizenship status is required at some point in the criminal proceedings, but the bill would require this information prior to the individual's first appearance. It would be difficult to compile this

information with the existing staffing levels. However, it cannot be determined with any certainty how much additional staffing would be required.

The Attorney General notes that the fiscal effect of SB 140 would be related to defending any legal challenges upon its passage, as well as some ongoing obligations placed upon the Office of the Attorney General. If the bill is passed, there is a strong likelihood that it would be challenged in court. In that event, based on the number and extent of any legal challenges, the Office may be required to outsource the Tort Claims Act defense of the law if in-house resources are insufficient. If the state were to lose a legal challenge on constitutional grounds, it is likely it would be ordered to pay the attorneys' fees of the prevailing party. The legal cost associated with the litigation could range from \$100,000 to \$250,000 per year. In addition, other obligations would include certifying that Kansas has not adopted policies that are less stringent than the federal law. This would include all branches and agencies of state government, cities, counties, school districts and other political or taxing subdivisions of the state. Enforcing this provision of the bill would require up to 3.00 additional FTE positions. Any fiscal effect associated with SB 140 is not reflected in *The FY 2014 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", written in a cursive style.

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

cc: Willie Prescott, Attorney General's Office
Mary Rinehart, Judiciary