

February 23, 2021

The Honorable Robert Olsen, Chairperson
Senate Committee on Commerce
Statehouse, Room 236A-E
Topeka, Kansas 66612

Dear Senator Olsen:

SUBJECT: Fiscal Note for SB 176 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 176 is respectfully submitted to your committee.

SB 176 would create the Kansas Home Inspectors Professional Competency and Financial Responsibility Act and establish the Kansas Home Inspectors Advisory Council. The purpose of the Council would be to assist and advise the Attorney General on industry standards, education, testing requirements for applicants, and rules and regulations.

The Council would consist of seven members that would be appointed by the Attorney General. The bill details the criteria for the members. Members of the Council would be paid subsistence allowance, mileage and other expenditures that would be paid from the Home Inspector Fee Fund or other available and appropriated funds of the Attorney General.

SB 176 details the duties and powers the Attorney General would have under the Act to include administering and enforcing the Act, registering qualified applicants, creating forms, creating needed technology, conducting investigations, and other duties. The bill describes the application and renewal processes, including that the Attorney General could conduct a criminal history record or background check. The bill would also set maximum fees the Attorney General could assess. The Attorney General could deny, suspend, or revoke registration or impose probationary conditions. SB 176 details the actions the Attorney General could take for violations of this Act, including hiring independent counsel that would be paid from the Home Inspectors Registration Fee Fund that is established in the bill.

Violations of this Act would be a class C nonperson misdemeanor. The bill also details when and how actions could be brought against a registered home inspector. The bill would also

require individuals performing home inspections to maintain general liability insurance coverage, a policy of errors and omissions insurance coverage, and a surety bond.

On and after January 1, 2022, any individual performing home inspections would be required to hold a current and valid registration and other requirements detailed in the bill. Finally, the Act would expire on July 1, 2027.

Estimated State Fiscal Effect				
	FY 2021 SGF	FY 2021 All Funds	FY 2022 SGF	FY 2022 All Funds
Revenue	--	--	--	--
Expenditure	--	--	\$103,894	\$103,894
FTE Pos.	--	--	3.00	3.00

According to the Office of the Attorney General, the last time the state required registration of home inspectors was in FY 2013. Prior to that time, the registration function was performed by a state agency with no full-time staff and had an approved FY 2013 budget of \$15,013 that was financed from the Kansas Home Inspectors Registration Fee Fund. The Office notes that it cannot estimate the number of home inspectors that would register and that the registration fee would be collected biennially. The agency assumes that most inspectors would register during FY 2023 and that fees collected would need to sustain the program for two fiscal years. The Office estimates that it would require 3.00 FTE positions and related operating expenditures of \$415,575 each fiscal year. Of that amount, \$234,145 would be for salary and wage expenditures and \$181,430 for related operating expenditures that would include office rent, office furniture, travel expenses, law enforcement equipment, information technology items, training, and other related office supplies. Although the requirement to register would not begin until FY 2023 the agency would expend approximately \$103,894 in FY 2022 to set up the program to begin operation on July 1, 2022. Since no revenues would be generated until FY 2023, the agency would require \$103,894 from the State General Fund in FY 2022 for startup expenditures and 3.00 FTE positions.

The Office of Judicial Administration states that enactment of SB 176 could increase the number of cases filed in district court because it allows the Attorney General to bring court action, allows appeals to be filed, and creates a new crime. This would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. Because the new crime creates a misdemeanor penalty, there could be more supervision of offenders required to be performed by court services officers. The bill also could result in additional docket fees, supervision fees, and fines assessed in cases filed under the provision of the bill. However, a fiscal effect cannot be estimated.

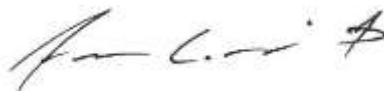
According to the Kansas Insurance Department, because an individual performing home inspections would be required to maintain a general liability insurance policy, enactment of SB 176 would result in an increase in premium taxes collected from insurance companies. The agency would retain 1.0 percent of any additional premium tax collected from enactment of the bill and

the remainder would be remitted to the State General Fund. However, the fiscal effect cannot be estimated because the number of additional premium taxes that would be collected is unknown.

The Kansas Bureau of Investigation (KBI) states that the bill would allow the Attorney General to conduct a criminal history record search or background check on an applicant or registered home inspector. Because the bill does not explain how a criminal history record search would be conducted, the KBI assumes that a name check would be conducted through the public non-criminal justice website at a cost of \$20 per search which would be paid by the Office of the Attorney General. The revenues received by the KBI from these searches would offset any additional expenditures. However, a fiscal effect cannot be estimated. Any fiscal effect associated with SB 176 bill is not reflected in *The FY 2022 Governor's Budget Report*.

The Kansas Association of Counties indicates that the bill could affect counties because cases could be brought in district court. This could create a backlog of cases in some district courts. However, a fiscal effect cannot be estimated. The League of Kansas Municipalities states that the bill would not have a fiscal effect on cities.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Paul Weisgerber, KBI
Janelle Williams, Judicial Council
Bobbi Mariani, Insurance
Willie Prescott, Office of the Attorney General
Debbie Thomas, Judiciary
Wendi Stark, League of Municipalities
Jay Hall, Association of Counties