

March 9, 2020

The Honorable Julia Lynn, Chairperson  
Senate Committee on Commerce  
Statehouse, Room 445A-S  
Topeka, Kansas 66612

Dear Senator Lynn:

**SUBJECT:** Fiscal Note for SB 419 by Senator Holland

In accordance with KSA 75-3715a, the following fiscal note concerning SB 419 is respectfully submitted to your committee.

SB 419 would increase the penalties for knowingly and intentionally misclassifying one or more employees as independent contractors for the purpose of avoiding either state income tax withholding and reporting requirements or state unemployment insurance contributions and reporting requirements. Upon a second or subsequent violation, a person would be subject to a civil penalty twice the amount of a civil penalty for a first violation. Upon conviction of a second or subsequent violation, the person would be guilty of theft. The bill would eliminate provisions regarding a third or subsequent violation. Civil penalties would be remitted to the State General Fund.


If a person has not complied with the civil penalties, the Kansas Department of Labor could order the person to cease doing business as an employer in the state for a period set by the Department. The period could not be less than ten days. If the person fails to comply with the Department's order, the Attorney General or a district attorney or a county attorney would file a petition with the district court requesting a court order prohibiting the person from doing business in Kansas.

The Kansas Department of Labor estimates the bill would have no fiscal effect on the Department because activities related to the bill are already part of current operations of the Unemployment Insurance Program. The Office of the Attorney General estimates the number of cases that would be handled by the Office would be small. As a result, the Office estimates the fiscal effect would be negligible and could be absorbed within existing resources.

The Office of Judicial Administration (OJA) estimates the bill could increase expenditures for the Judicial Branch from petitions filed with the courts by the Attorney General or district or county attorneys. This would increase the time spent by court personnel to process and research the petitions. However, OJA is unable to estimate the number of petitions that would occur under the bill; therefore, the fiscal effect on the Judicial Branch is unknown. The Kansas Sentencing Commission indicates the bill could have an effect on prison admissions and beds, but the Commission is unable to determine the effect.

The Kansas Department of Revenue estimates the provision in the bill that remits civil penalties to the State General Fund would increase revenue to the fund; however, it is estimated that the fiscal effect would be negligible. The Department indicates the bill would have no fiscal effect on agency administrative costs. Any fiscal effect associated with SB 419 is not reflected in *The FY 2021 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell", written in a cursive style.

Larry L. Campbell  
Director of the Budget

cc: Dawn Palmberg, Department of Labor  
Willie Prescott, Office of the Attorney General  
Mary Rinehart, Judiciary  
Scott Schultz, Sentencing Commission  
Lynn Robinson, Department of Revenue