

March 15, 2025

The Honorable Brenda Dietrich, Chairperson
Senate Committee on Financial Institutions and Insurance
300 SW 10th Avenue, Room 546-S
Topeka, Kansas 66612

Dear Senator Dietrich:

SUBJECT: Fiscal Note for SB 284 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 284 is respectfully submitted to your committee.

SB 284 would enact the Defense of Drug Delivery Act which would protect access to 340B drugs, which are pharmaceuticals provided at reduced prices to eligible healthcare entities under the federal 340B Drug Pricing Program. The bill would establish protections for "covered entities" (healthcare organizations eligible for the 340B program) by prohibiting manufacturers and distributors from restricting or limiting these entities' ability to acquire or deliver 340B drugs.

The bill would prohibit manufacturers, wholesalers, virtual wholesalers, third-party logistics providers, repackagers, and their affiliates from denying, restricting, or discriminating against covered entities regarding 340B drug acquisition or delivery. Additionally, manufacturers would not be permitted to require covered entities to submit health information, claims data, or other purchasing information unless voluntarily provided or required by other laws.

The bill would authorize the Office of the Attorney General to investigate violations, administer oaths, issue subpoenas, and collect evidence. The State Board of Pharmacy could assist in these investigations. Violators could face civil penalties of up to \$50,000 per package of 340B drugs found in violation. All penalties collected would be deposited in the newly established Defense of Drug Delivery Fund to be administered by the Office.

The bill would include exceptions for drugs subject to limited distribution requirements under federal law and would clarify that it doesn't prohibit manufacturers from requesting information that covered entities are required to provide under federal or state law, including audit-related data. The Act would also contain a severability clause, ensuring that if any portion is found unconstitutional, the remainder of the Act would remain valid and enforceable.

The Kansas Board of Pharmacy indicates that enactment of SB 284 would have a fiscal effect on expenditures of the Board. The Board estimates that it would have increased expenditures of \$220,000 from the Board of Pharmacy Fee Fund for an additional 2.00 positions salaries, fringe benefits, and other operating expenses. Currently, the Board does have any expertise in the area

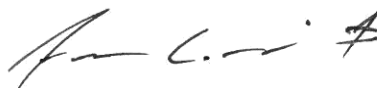
of 340B drugs, contracts, or processes and is not engaged in any investigations related to those contemplated by the bill. The Board would need to hire a subject matter expert to learn about and implement investigation and enforcement activity. The Board anticipates that complaints, investigations, and enforcement activity would be significant in the first three to five years of implementation and then taper off as market participants adjust their policies and business models. Additionally, most drug manufacturers and distributors registered with the Board are non-resident facilities, which would make investigations and audits more cumbersome and resource intensive. These staff would also be responsible for collaborating with the Office of the Attorney General. The Board also anticipates attorney contractual expenses related to enforcement actions (\$160/hour) would increase, but the Board is unable to estimate these amounts.

The Board states that no revenue would be anticipated by the bill and the Board does not carry a balance in the fee fund for additional expenditures. If the Board would have disciplinary and enforcement authority, there would be a potential revenue source to the Board from fines associated with discipline. However, since these amounts are unpredictable, the Board would likely need to increase facility registration fees to off-set increased expenditures.

The Office of the Attorney General indicates that enactment of SB 284 would increase expenditures by \$156,526 for FY 2026 and \$164,352 for FY 2027 from the State General Fund for 1.00 Assistant Attorney General position and other operating expenses. These expenses would continue in future years. The Office would be required to administer the Defense of Drug Delivery Fund under this Act. The management of this fund could be handled with current positions. A person or entity who would violate the provisions of the Act, in addition to any other penalty provided by law, could incur a civil penalty in an amount up to \$50,000 for each violation. It is unclear how many violations would take place annually under this Act. Therefore, the Office cannot forecast a revenue increase resulting from this Act becoming law. The Office would be required to defend orders made by the agency if an assessment of a civil penalty would be appealed under the Judicial Review Act. Existing staff would likely be able to handle this review if the position above is funded.

The Department of Administration, Kansas Department of Health and Environment, and the Kansas Insurance Department indicate that enactment of SB 284 would have no fiscal effect on the agencies. Any fiscal effect associated with SB 284 is not reflected in *The FY 2026 Governor's Budget Report*.

Sincerely,



Adam C. Proffitt
Director of the Budget

cc: Alexandra Blasi, Board of Pharmacy
Matt Bingesser, Office of the Attorney General
Amy Penrod, Department of Health & Environment
Samir Arif, Department of Administration
Kyle Strathman, Insurance Department