

February 2, 2015

The Honorable Jeff King, Chairperson
Senate Committee on Judiciary
Statehouse, Room 341-E
Topeka, Kansas 66612

Dear Senator King:

SUBJECT: Fiscal Note for SB 57 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 57 is respectfully submitted to your committee.

SB 57 would modify the Kansas Power of Attorney Act to add definitions and clarify the duties of the Attorney in Fact (AIF). SB 57 would add requirements that must be met in order for a power of attorney (POA) to remain effective if the principal becomes partially or totally disabled or if there is uncertainty about whether the principal is dead or alive. The new requirements would be as follows:

1. The POA must be signed and dated by the AIF before a notary public, acknowledging both the AIF's identity and his or her understanding of the legal responsibilities imposed upon the AIF;
2. The POA must contain a specific warning to the principal at the beginning of the document as prescribed in the bill; and
3. The POA must contain a specific notice to the AIF at the conclusion of the document as prescribed in the bill.

SB 57 would clarify that the AIF must use the principal's money, property, and assets only in the principal's best interests and not for the benefit of the AIF. The bill would clarify that intimidation or deception of the principal by the AIF would be subject to criminal prosecution and that a POA executed by a person without capacity is invalid. SB 57 also would give protection to a person who in good faith conducts business with an AIF whether or not the AIF's authority has been terminated. The bill would expand requirements for the AIF to maintain adequate records of receipts, disbursements and transactions made on behalf of the principal and to keep those records for at least five years. It would impose certain liabilities on an

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AIF who fails to maintain adequate records or who commingles funds of the principal with those of the AIF.

The Office of Judicial Administration indicates that SB 57 may require time spent by courts determining issues that might arise regarding compliance with the requirements outlined in the bill. However, until the courts have had an opportunity to operate with the provisions of SB 57 in place, the fiscal effect on expenditures by the Judicial Branch cannot be determined.

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: Mary Rinehart, Judiciary