

February 13, 2024

The Honorable Beverly Gossage, Chairperson  
Senate Committee on Public Health and Welfare  
300 SW 10th Avenue, Room 142-S  
Topeka, Kansas 66612

Dear Senator Gossage:

**SUBJECT:** Fiscal Note for SB 390 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 390 is respectfully submitted to your committee.

SB 390 would enact the Conscientious Right to Refuse Act and would prohibit an employer, healthcare entity, school, or person from discriminating and committing other specific acts as defined in the bill based on an individual's refusal of any vaccination, biologic, pharmaceutical, drug, gene editing technology, DNA-or RNA-based product if an individual's refusal is for reasons of conscience. The bill would allow for private cause of actions to be filed within two years of any direct or indirect injury suffered as a result of a violation of the Act. The bill would define "conscience" as theistic and non-theistic moral and ethical beliefs as to what is right and wrong that are sincerely held with the strength of traditional religious views. The bill would also include other definitions as used throughout the Act.

In addition, SB 390 would repeal KSA 65-126, 65-127, 65-129, and 65-129c, which all relate to the isolation and quarantine powers of the Secretary of Health and Environment for infectious or contagious diseases.

The Kansas Department of Environment (KDHE) states that enactment of SB 390 would remove the authority of the Secretary of Health and Environment to control the spread of infectious or contagious diseases by repealing KSA 65-126, 65-127, 65-129 and 65-129c. The bill would disallow "treatment of an individual differently from any other individual who accepted the medical intervention," which the agency states would include vaccination and treatment. The agency notes this would remove public health authority to order individuals who have been exposed to a vaccine-preventable disease and are not immune to the disease because of past natural disease or vaccination to quarantine. The bill would also remove the authority to order individuals with active disease, such as active tuberculosis, who refuse treatment to isolate during their infectious period.

SB 390 would also remove any school's, healthcare entity's, or employer's right to refuse service or entry to anyone who had refused a vaccination, biologic, pharmaceutical, drug, gene editing technology, DNA- or RNA-based product for reasons of their own conscience. Currently KSA 72-6262(b) allows for medical and religious exemptions of health tests or inoculations for preschool, daycare, elementary, junior high, or high schools within the state. SB 390 would remove the need for medical or religious exemptions based on individual conscientious which could lead to less students being immunized and more children at risk of being exposed to diseases like measles, mumps, polio, pertussis, hepatitis, and flu.

KDHE indicates that rules and regulations, including those specific to isolation and quarantine, are tailored for individual diseases such as tuberculosis, Ebola, smallpox, and measles which are based on the infectious agent, how the disease spreads, the disease's unique infectious period, and its unique incubation period. In Ohio, 85 locally acquired measles cases were confirmed between October 2022– February 2023, with 29 of those cases hospitalized. The median total cost of a measles outbreak in the United States is approximately \$152,308. The cost of each measles case is estimated to be \$32,805, with \$223 estimated for each contact, and a daily cost of the investigation estimated to be \$4,000. The overall cost of an outbreak is estimated to be \$3.4 million (\$47,479 per case or \$814 per contact). Most of the costs, approximately \$2.3 million, are associated with public health response followed by productivity losses of about \$1.0 million, and direct medical costs of about \$76,000. The agency notes that the incidence of outbreaks and the costs associated would be expected to rise without quarantine and isolation authority.

In Kansas, an outbreak of multidrug-resistant tuberculosis (MDR TB) involving 13 individuals, aged six months to 58 years, in four households was identified in an urban Kansas community during November 2021 through November 2022. An extensive contact investigation involving hundreds of people who were household, school, and workplace contacts was conducted by local, state, and federal public health professionals. The immediate public health response focused on the identification, isolation, and treatment of persons with MDR TB. All household contacts were evaluated for TB disease and latent TB infection with an interferon-gamma release assay blood test or tuberculin skin test, chest imaging, and sputum testing. Many of the active TB cases were hospitalized for months, including babies and children, who did not have insurance. The state granted an additional \$340,000 dollars of federal funding to the county to cover its increased staffing needs during the outbreak response. The ability to enforce quarantine and isolation was imperative to the success in containing this debilitating and deadly disease.

KDHE estimates new costs could be up to \$20.0 million, including \$10.0 million from the State General Fund, in FY 2024 and \$30.0 million, including \$15.0 million from the State General Fund, in FY 2025. Assumptions used for the estimate in the increased cost of public health investigations resulting from increased cases and contacts of infectious diseases are based on published literature and based on the analysis of the above mentioned Ohio 2022-2023 measles outbreak and the Kansas MDR TB outbreak in 2021-2022.

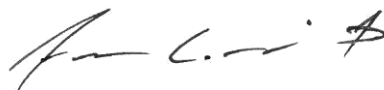
KDHE states that the overall fiscal effect of the proposed legislation includes increased cost of public health investigations, which would fall to local and state public health to cover, plus the cost to insurance companies, including the state Medicaid program, to cover additional healthcare costs. In the long-term, the agency states that the elimination of isolation, quarantine, and other measures to control the spread of infectious and contagious diseases could lead to an increase in case of disease, which would lead to more associated costs.

The Office of Judicial Administration states enactment of SB 390 could increase the number of cases filed in district courts because it allows for civil suit to be filed. This could result in more time spent by judicial and nonjudicial personnel processing, researching, and hearing these cases. The Office estimates enactment of the bill could result in the collection of docket fees and fines assessed in those cases filed under the bill's provisions, which would be deposited to the State General Fund. The bill would not affect other revenues to the Judicial Branch. However, a fiscal effect cannot be estimated.

The Board of Regents indicates that passage of the bill would have an effect on the operations of postsecondary educational institutions. However, no fiscal effect would be anticipated. The Department of Education reports there would be no fiscal effect on the agency. The Department for Aging and Disability Services states that the bill would not affect the agency as it does not utilize any of the authorities that would be repealed, and the agency does not have any authority over the hiring practices for individuals, providers, or facilities other than minimum education and background check requirements. The Department of Labor indicates that enactment of SB 390 could affect the agency if a violation of the Act were to occur; however, the agency does not anticipate any fiscal effect. Any fiscal effect associated with SB 390 is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties and the League of Kansas Municipalities were unable to estimate the fiscal effect on cities and counties. KDHE reports that counties would incur increased costs for public health investigations and other multi-sectoral fiscal effects caused by the strain put on businesses, health centers, and schools due to infectious disease.

Sincerely,



Adam C. Proffitt  
Director of the Budget

cc: Amy Penrod, Department of Health & Environment  
Leigh Keck, Department for Aging & Disability Services  
Gabrielle Hull, Department of Education  
Becky Pottebaum, Board of Regents  
Dawn Palmberg, Department of Labor  
Trisha Morrow, Judiciary  
Wendi Stark, League of Kansas Municipalities  
Jay Hall, Kansas Association of Counties