

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 391 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 391 is respectfully submitted to your committee.

SB 391 would enact the Constitutional Right to Health Freedom Act. The Act would remove the authority of the Secretary of Health and Environment to designate infectious or contagious diseases by rules and regulations. The Secretary would be required to submit a report to the Legislature on such diseases and would be authorized to recommend ways to prevent the spread and dissemination of diseases injurious to the public health and could recommend the isolation and quarantine of persons afflicted with or exposed to such diseases. The Secretary would be allowed to adopt policies necessary to carry out provisions of KSA 65-101 related to the general supervision of the health of the people of the state but could not carry out those provisions in a manner that conflicts with any other statute or otherwise expands the authority of the Secretary.

The bill would amend various statutes pertaining to the issuance of orders by the Secretary, county or joint boards of health, and local health officers related to infectious and contagious diseases and would remove authority to issue certain orders to allow only recommendations. The bill would remove current requirements for licensed social workers, teachers, and school administrators to report knowledge or information related to individuals suffering from or a death from a reportable infectious or contagious disease. In addition, the bill would also remove the authority of a county or joint board of health or local health officer from prohibiting public gatherings when necessary for the control of any and all infectious or contagious disease, although a recommendation against the public gathering would be allowed.

According to the Kansas Department of Health and Environment (KDHE), enactment of SB 391 could increase expenditures due to an excess number of cases of infectious or contagious diseases as the bill would remove or limit the authority of the Secretary, as well as limit the authority of local health officers, to control the spread of infectious or contagious diseases. The agency states that the estimate for one measles outbreak would be approximately \$7.1 million for the increased costs related to public health investigations. The estimate is based on the agency's

review of available data as well as internal analysis of the 2018 measles outbreak in Johnson County. KDHE notes that elimination of isolation, quarantine, and other measures to control the spread of infectious and contagious diseases, would have compounding effect with case counts increasing each year. KDHE notes that during a 2018/2019 measles outbreak of 72 cases in Clark County, Washington, the public health response to the outbreak cost approximately \$2.3 million. The investigators estimated that, if no isolation or quarantine measures had been implemented, the outbreak would have resulted in an additional 1,296 cases and 72,198 contacts thus increasing the cost of the public health response to over \$120.0 million. Measles is a vaccine preventable disease for which cases are isolated and close contacts who are not immune to the disease because of prior infection or vaccination are quarantined. KDHE reports that between 2001 and 2018, for 11 outbreaks, the median cost for a measles outbreak in the United States is estimated to be \$152,308 per outbreak, \$32,805 per case, and \$223 per contact. In 2018, Kansas experienced a large measles outbreak resulting in 22 cases and 198 contacts. Using the same methodology cited above, if no isolation or quarantine measures had been implemented there would have been 396 cases and 3,564 contacts increasing the cost to public health from an estimated \$419,584 to \$7.6 million, an excess expenditure of over \$7.1 million. The agency notes this is just one example of the increased cost of a single outbreak of measles. KDHE investigates between 32 to 108 outbreaks per year caused by diseases that are reportable in Kansas or that have isolation and quarantine regulations. The agency states that excess cost to KDHE and to counties would likely be much higher than this estimate.

KDHE notes the removal of the Secretary's authority to adopt rules and regulations, would only allow the adoption of policies and would affect the ability to carry out the provisions of 65-101(a), which includes requiring reports of disease, investigating causes of disease, advising other offices of environmental hazards in public buildings, making sanitary inspections, taking action to prevent the introduction and spread of infectious or contagious diseases in the state, and providing public outreach services. KDHE states because teachers and school administrators would no longer be required to report infectious diseases, identifying cases or outbreaks of infectious diseases in schools, and preventing transmission would become increasingly challenging. The agency states that when teachers and school administrators are mandated to report, they are able to quickly identify that they have students absent with the same diagnosis, report the observation to public health, and receive timely guidance on infection control methods to control the spread of disease within the school and education on the proper isolation time period for cases so they do not return to school while infectious to others. Delays in identifying outbreaks and involving public health are likely to increase the number of cases associated with school-based outbreaks which results in increased expenditures by public health for investigations, lost school days for students, and potentially increased healthcare costs for families and individuals.

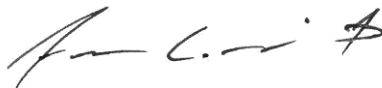
The bill would also limit local health officer duties in an active case or death from an infectious or contagious disease to care, restriction of communication, and disinfection, but would strip the authority over isolation and quarantine. The agency notes prevention and intervention programs, specifically interventions such as isolation and quarantine are public health tools that are the cornerstones to controlling the spread of infectious and contagious diseases. The agency states that without these measures, or if the use of these measures was severely limited, the number of cases and close contacts during infectious disease outbreaks would increase and those increases would likely result in increased costs of public health investigations at KDHE and at local health departments, as well as increased healthcare costs for families and individuals.

KDHE reports that limiting the authority of the county or joint board of health or local health officer to prohibit public gatherings for the purposes of disease control would be that public health would no longer have the authority to recommend closures of restaurants to control the spread of foodborne illness which would result in an increased number of cases. The agency notes the Secretary would no longer have the authority to designate reportable infectious and contagious diseases in the state and instead would submit a report to the Legislature. KDHE states that rules and regulations, including those specific to isolation and quarantine, are tailored for individual diseases based on the infectious agent, how the disease spreads, the disease's unique infectious period and its unique incubation period. The agency reports that the infrastructure that allows transmission of information on infections and contagious diseases is vast, and it is not reasonable for 100 local health departments to establish the same infrastructure which would be necessary as the bill puts sole responsibility on local health officers. The case investigation and technical guidance as to when a person is no longer considered infectious to others would not function without KDHE involvement. Additionally, without the control measure to quarantine those unvaccinated and exposed to an infectious vaccine preventable disease, the agency states the number of cases associated with outbreaks would increase.

The Office of Judicial Administration states passage of SB 391 would not have a significant fiscal effect on expenditures of or revenues to the Judicial Branch. The Kansas State Department of Education reports the bill would not have a fiscal effect on the agency. Any fiscal effect associated with SB 391 is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties was unable to estimate a fiscal effect for counties.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", with a stylized flourish at the end.

Adam C. Proffitt  
Director of the Budget

cc: Trisha Morrow, Judiciary  
Jay Hall, Kansas Association of Counties  
Gabrielle Hull, Department of Education  
Amy Penrod, Department of Health & Environment