

March 7, 2022

The Honorable Kellie Warren, Chairperson
Senate Committee on Judiciary
Statehouse, Room 346-S
Topeka, Kansas 66612

Dear Senator Warren:

SUBJECT: Fiscal Note for SB 541 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 541 is respectfully submitted to your committee.

SB 541 would allow individuals to file a claim in district court for compensation for the use, restriction of use, damage, or loss of property as the result of governmental actions. The bill would limit the timeframe for orders made by any city, local health officer, or the Secretary of Health and Environment for face mask mandates, gathering limitations, and business restrictions related to a contagious or infectious disease to 30 days. Actions taken by the Secretary would be required to be narrowly tailored to the purpose of the action and use the least restrictive means to achieve such purpose. The bill would prohibit post-secondary educational institutions, the State Board of Education, local boards, schools, and school officials from requiring a COVID-19 vaccination and from issuing or requiring a COVID-19 passport. Schools would be required to recognize exemptions for mask requirements and alternative measures regarding religious exemptions for vaccinations.

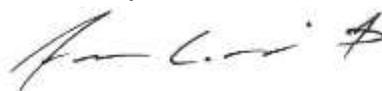
In addition, SB 541 would make amendments related to the state of disaster emergencies, state of local disaster emergencies, and responses to contagious or infection diseases, by changing the timeframe for court response to petitions from 7 days to “without unreasonable delay” and requiring the court to award a prevailing plaintiff the cost of the suit and attorney fees. The bill would give local boards of education and governing bodies of community and technical colleges the authority to issue orders or policies for contagious or infectious diseases instead of the current authority given during the state of disaster emergency related to the COVID-19 health emergency, but such actions would be limited to 30 days. SB 541 would remove the sunset for the Contact Tracing Privacy Act. The bill would prohibit schools and child care facilities from denying access to their facilities unless there were reasonable grounds that a person was infected with a disease suspected of being infectious or contagious. The bill would also allow reimbursement of tax revenue in certain situations for governmental actions related to a contagious or infectious disease. SB 541 would take effect upon publication in the *Kansas Register*.

KDHE states that enactment of SB 541 would result in increased expenditures for the agency, if found by a district court in a civil action to be responsible for and directed to provide awards of compensation pertaining to and resulting from restrictions on use of property due to a governmental action related to a contagious or infectious disease, and issued or adopted by the state, county, or other political subdivision. A total fiscal effect could not be estimated. The Kansas State Department of Education and the Office of the Governor state the bill would not have any fiscal effect on the operations of either agency. The Kansas Board of Regents reported the bill would not have a fiscal effect on higher education. The Office of the Attorney General reports that while enactment of SB 541 could reduce some of the state's potential legal liability in future cases, certain provisions could be subject to legal challenge. The Office states some litigation defense could be handled by the Office, but it is possible that specialized outside counsel would need to be hired by the state. The total fiscal effect could not be estimated. The Kansas Department of Revenue states any future shutdowns or restrictions that would result in the state paying back a portion of a property owner's property taxes can not be estimated.

The Office of Judicial Administration states enactment of SB 541 could increase the number of cases filed in district court because it allows for civil actions to be filed to challenge orders related to infectious diseases, it also requires district courts to conduct hearings within 72 hours and issue orders without reasonable delay. This could result in more time spent by court employees and judges processing and deciding these cases, as well as more supervision of offenders required by court services officers. 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. According to the Office, a fiscal effect cannot be estimated. Any fiscal effect associated with SB 541 is not reflected in *The FY 2023 Governor's Budget Report*.

The Kansas Association of Counties and the League of Kansas Municipalities both state that enactment of SB 541 would increase costs for local governments related to the defense of potential litigation and would subject local governments to claims for compensation under the bill. A total fiscal effect could not be estimated for either organization.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
Kelly Oliver, Board of Regents
Craig Neuenswander, Education
Willie Prescott, Office of the Attorney General
Dan Thimmesch, Health & Environment
Shelbie Konkel, Office of the Governor
Jay Hall, Association of Counties
Wendi Stark, League of Municipalities
Lynn Robinson, Department of Revenue