

February 26, 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 212 by Senator Sykes

In accordance with KSA 75-3715a, the following fiscal note concerning SB 212 is respectfully submitted to your committee.

SB 212 would enact the Prescription Drug Cost and Affordability Review Act. The bill would establish within the Department of Insurance the Prescription Drug Affordability Board as an autonomous entity and the Prescription Drug Affordability Stakeholder Council. For the Board and the Council, the bill would describe the members that could and could not be appointed, the vacancy and removal of members, the frequency of meetings, and the salaries and other expenses of the members. The bill also details the information that would and would not be subject to the Kansas Open Records Act, and the bill would sunset on July 1, 2030. The salaries and other expenditures incurred by the board members would be subject to appropriations. The Council would assist the Board in making decisions required under the Act.

Starting on January 1, 2027, the Board in consultation with the Council would select one or more prescription drug products based on criteria established in the bill and determine whether to conduct a cost and affordability review of each drug. If the Board conducts the review, it would determine if the product has led or will lead to affordability challenges to the healthcare systems in Kansas or high out-of-pocket costs for patients. The bill details the information the Board would consider when making a determination. If the Board determines that a drug has led or will lead to affordability challenges, the Board could adopt rules and regulations establishing the upper payment limit for the drug. An upper limit would not include professional dispensing fees. If the Board establishes an upper limit for a drug, a purchaser, or third-party payer would not purchase, bill, or reimburse for the product in an amount that exceeds the limit. The Attorney General could investigate a violation and could commence a civil action against a person for appropriate relief that could include injunctive relief. The Board could adopt rules and regulations to administer the Act and could enter into contracts with a third party to assist in carrying out the duties.

The bill would establish the Prescription Drug Affordability Fund that would be administered by the Department of Insurance and fund the Board and expenditures to implement and administer the Act. On or before December 31, 2026, and each year after, the Board would be required to submit a written report to the Legislature and the contents of the report would include price trends, recommendations of the Board, and the number of prescription drugs reviewed. Prior to the first day of the 2027 regular legislative session, the Board would conduct a one-time study about the price, effect on insurance premiums, and changes in cost-sharing for generic drugs along with other items detailed in the bill.

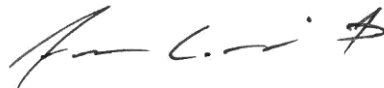
The Office of the Attorney General states that it would require \$731,066 in FY 2026 and \$742,619 in FY 2027 from the State General Fund. Of the amount for FY 2026, \$133,905 would be for 1.00 Assistant Attorney General position, \$60,839 would be for 1.00 Investigator position, \$36,322 would be for operating expenditures, and \$500,000 would be for litigation costs to defend the Act. For FY 2027, the agency estimates a 5.0 percent increase in expenditures over FY 2026.

The Insurance Department states that the bill requires expenditures for Board members to administer the Act would be paid from the new Prescription Drug Affordability Fund. However, the bill does not have a mechanism to generate any revenues into the new fund. For that reason, the agency is unclear if the funds would be provided from a transfer from the State General Fund or another fund. Also, the agency cannot estimate an expenditure amount for administering the provisions of the Act. Therefore, the agency cannot estimate the fiscal effect of the bill.

The Office of Judicial Administration states that the bill could increase the number of cases filed in district court because it authorizes the Attorney General to file a civil action. This would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. The bill could also increase the collection of docket fees that would be deposited into the State General Fund. However, the Office cannot determine a precise fiscal effect of the bill.

The Office of the Governor states that even though the bill requires the Governor to appoint and remove members to the Board and Council, the bill would not have a fiscal effect. Any fiscal effect associated with SB 212 is not reflected in *The FY 2026 Governor's Budget Report*.

Sincerely,



Adam C. Proffitt
Director of the Budget

cc: Trisha Morrow, Judiciary
Kyle Strathman, Insurance Department
Matt Bingesser, Office of the Attorney General
Ethan Belshe, Office of the Governor