

April 26, 2023

The Honorable Fred Patton, Chairperson
House Committee on Judiciary
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Patton:

SUBJECT: Fiscal Note for HB 2294 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2294 is respectfully submitted to your committee.

HB 2294 would increase the minimum age required to purchase or possess tobacco products from 18 years to 21 years of age. The bill would amend and update several definitions under the Kansas Cigarette and Tobacco Products Act, including “electronic cigarette” and “tobacco products” and would update other statutory references to be consistent with terms under the Act. The bill would include new penalties for violations of the Act and would specify additional penalties for repeated violations. The fees for a retail dealer’s license and vending machine permit under the act would be increased from \$25.00 to \$50.00. The bill would also include new requirements for age verification and notice of the age requirement. The Secretary of Health and Environment would approve training programs previously approved by the Secretary of Revenue aimed at preventing tobacco products from being sold, furnished, or distributed to persons under 21 years of age. In addition, the bill would require at least one unannounced compliance inspection of retail dealers each calendar year.

According to the Kansas Department of Revenue, enactment of HB 2294 would reduce state revenues by approximately \$7.6 million in FY 2024, \$7.5 million in FY 2025, and \$7.3 million in FY 2026. This estimate assumes that 4.74 percent of all smokers in the state fall within the age range of 18-20. The agency estimates that the bill would result in a decrease in cigarette sales of 2.0 percent each year. The potential loss of revenue in FY 2024 is estimated as follows: a reduction in cigarette stamp revenue totaling \$5.4 million; a reduction in sales tax revenue of \$1.6 million; a reduction in E-cigarette tax of \$100,000; and a reduction in tobacco tax of \$500,000. The decreased revenues would have a small offset of approximately \$73,000 each fiscal year due to the \$25.00 increase in the retail dealer’s licenses and vending machine permits.

The agency also reports the bill would require administrative costs totaling \$18,537. This would include 240 hours of IT/E-Commerce work. The agency also notes that the bill would

require cities and counties who conduct their own compliance checks for underage sales to report each violation of a sale to an individual under the age of 21 to the department. This would require additional resources to cities, counties, and the agency to be able to track and adjust customer records. Cities and counties would need to access the agency's database in which records are kept.

The Office of Judicial Administration states enactment of the bill could increase the number of tobacco citations and result in additional crimes charged due to the age threshold increase, this in turn could result in more time spent by court employees and judges processing 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. According to the Office, a fiscal effect cannot be estimated.

The Kansas Department of Health and Environment reported that some health system cost savings would be expected over time, by reduction of deaths and diseases from commercial tobacco product use, but a total effect could not be estimated. The Office of the Attorney General states that the bill could result in a decrease in the sales of tobacco products, which could lead to a decrease in payments to the state under the Master Settlement Agreement, but a total fiscal effect could not be estimated. The Kansas Sentencing Commission reports the bill would not have any fiscal effect on the agency. Any fiscal effect associated with HB 2294 is not reflected in *The FY 2024 Governor's Budget Report*.

The Kansas Association of Counties states the bill would likely have an impact on counties due to the cost associated with the reporting requirements, however a total fiscal effect could not be estimated. The League of Kansas Municipalities reports that the bill would require cities to conduct compliance checks for underage sales and report each violation to the Department of Revenue. Implementation and enforcement would increase costs to local government, but an exact fiscal effect is unable to be estimated.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Vicki Jacobsen, Judiciary
Scott Schultz, Sentencing Commission
Jay Hall, Kansas Association of Counties
Lynn Robinson, Department of Revenue
Amy Penrod, Department of Health & Environment
John Milburn, Office of the Attorney General
Wendi Stark, League of Kansas Municipalities