

February 8, 2011

REVISED

The Honorable Tim Owens, Chairperson  
Senate Committee on Judiciary  
Statehouse, Room 559-S  
Topeka, Kansas 66612

Dear Senator Owens:

SUBJECT: Revised Fiscal Note for SB 48 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following revised fiscal note concerning SB 48 is respectfully submitted to your committee.

SB 48 would amend the Kansas Probate Code with regard to determination of the validity and payment of claims against a decedent's estate and revocable trust after the settlor's death. This bill allows a person who possesses a decedent's will to file the will and an affidavit for the purpose of preserving the will for record in the event that probate proceedings are later instituted. Current law allows this sort of filing only in situations where the decedent's probate estate contains no known property or the value of the property is less than the total of all known demands. In addition, SB 48 provides that a decedent's property that was exempt from creditors' claims immediately before the decedent's death would remain exempt after his or her death.

According to the Office of Judicial Administration, passage of SB 48 would have no fiscal effect.

Since the original fiscal effect statement was issued, the Kansas Health Policy Authority has provided information on the fiscal effect of this bill. The Kansas Medicaid Program has authority under federal law and regulation to recover state and federal costs of medical assistance provided to deceased beneficiaries if assets remain after a beneficiary's death. An expanded list of assets for recovery under this program was added by the 2004 Legislature and allows the program to pursue claims against property which might not normally flow into a decedent's estate. According to the Authority, the bill would limit the Kansas Medicaid Program's ability to recover costs, resulting in a loss of \$117,000 annually to agency fee funds. This amount was based on a review of FY 2010 Medicaid estate recovery cases that went through probate and assumes that 10.0 percent of the total probate collections could fall under the provisions of SB 48. Medicaid estate recoveries related to probate actions totaled \$3.0 million during that fiscal year, and the recoveries are split between the state and federal government at the federal

The Honorable Tim Owens, Chairperson

February 8, 2011

Page 2—Fisc\_Note\_Sb48

Medicaid assistance percentage (FMAP). For FY 2012, the FMAP rate is expected to be approximately 39.0 percent ( $\$3,000,000 \times .10 \times .39 = \$117,000$ ). Any fiscal effect associated with SB 48 is not reflected in *The FY 2012 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven J. Anderson", written in a cursive style.

Steven J. Anderson, CPA, MBA  
Director of the Budget

cc: Mary Rinehart, Judiciary