

March 10, 2014

The Honorable Ralph Ostmeyer, Chairperson  
Senate Committee on Federal and State Affairs  
Statehouse, Room 136-E  
Topeka, Kansas 66612

Dear Senator Ostmeyer:

SUBJECT: Fiscal Note for SB 358 by Senator Arpke, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning SB 358 is respectfully submitted to your committee.

SB 358 would establish the Community Defense Act to regulate sexually oriented businesses. The bill would prohibit the establishment of a sexually oriented business within 1,000 feet of any pre-existing accredited public or private elementary school, house of worship, state-licensed day care facility, public library, public park, residence, or other sexually oriented business. This provision would not apply to businesses lawfully established before the effective date of this act. SB 358 would prohibit the establishment of a sexually oriented business if a person with an influential interest in the business has been convicted of certain criminal activities that are specified in the bill.

The bill would prohibit a person from appearing nude in a sexually oriented business. An employee of a sexually oriented business could appear semi-nude only on a fixed stage at least 18 inches from the floor and at least six feet from all patrons in a room of at least 600 square feet. The semi-nude employee would be prohibited from touching a patron or the patron's clothing. SB 358 would impose certain space, configuration, and monitoring restrictions on a sexually oriented business that shows film or other video reproduction of specified sexual activities or specified anatomical areas.

SB 358 would require a sexually oriented business to remain closed between midnight and 6:00 a.m., prohibit anyone under the age of 18 from being on the premises, and prohibit the sale, use, or consumption of alcoholic or cereal malt beverages on the premises.

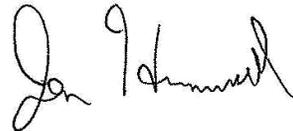
A violation or refusal to comply with these provisions would constitute a class C misdemeanor. Each day that a violation occurs and each separate occurrence would be a

separate offense. Finally, the bill would label habitual violations of any law regulating sexually oriented businesses as common nuisances.

SB 358 has the potential for increasing litigation in the courts because of the new violations created by the bill. If it does, the Office of Judicial Administration indicates that there would be a fiscal effect on the operations of the court system. However, it is not possible to predict the number of additional court cases that would arise or how complex and time-consuming they would be. Therefore, a precise fiscal effect cannot be determined. In any case, the fiscal effect would most likely be accommodated within the existing schedule of court cases and would not require additional resources.

The League of Kansas Municipalities states that the fiscal effect of SB 358 on cities cannot be determined at this time. The Kansas Associations of Counties states that SB 358 could result in added costs related to enforcing the new law, but the amount cannot be determined at this time. Any fiscal effect associated with SB 358 is not reflected in *The FY 2015 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Hummell". The signature is fluid and cursive, with the first name "Jon" being more prominent than the last name "Hummell".

Jon Hummell,  
Interim Director of the Budget

cc: Larry Baer, LKM  
Melissa Wangemann, KAC  
Mary Rinehart, Judiciary  
Scott Schultz, Sentencing Commission  
Jeremy Barclay, KDOC