

February 9, 2026

The Honorable Michael Fagg, Chairperson
Senate Committee on Utilities
300 SW 10th Avenue, Room 548-S
Topeka, Kansas 66612

Dear Senator Fagg:

SUBJECT: Fiscal Note for SB 439 by Senate Committee on Utilities

In accordance with KSA 75-3715a, the following fiscal note concerning SB 439 is respectfully submitted to your committee.

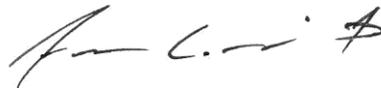
SB 439 would establish the Utility Railroad Crossing Act to establish a consistent process for the altering of facilities crossing or parallel to a railroad right-of-way after July 1, 2026. The bill would require a utility to provide written notice of request to the railroad 30 days prior to action and include certain components, including a one-time standard fee of \$1,250, and minimum insurance requirements. The bill would stipulate instances where notice is not required and parameters for emergency maintenance or repair and expense reimbursement. The bill would establish notification procedures in the event of objection and processes in the event of disagreement to include filing a complaint with the Kansas Corporation Commission (KCC). The KCC would be required to issue an order within 120 days after the filing, assessing any associated costs equally. The order would be subject to review in accordance with the Kansas Judicial Review Act. The bill would require that the utility restore property to its previous condition, allow the utility to assign or transfer rights to a successor with provided notice, and require prompt payment or discharge of all taxes and charges levied on facilities located in a railroad's right-of-way. The bill could require a study by a qualified engineer when the proposed facility is an electric transmission line and the line would not be energized for at least 30 days after notice is given to the railroad, for sufficient time to confirm that the line would not interfere with safe railroad operations. The bill would further not allow a lien to be created or enforced against a utility's property in a railroad's right-of-way and would require the railroad and utility to maintain and repair its own respective property.

The Judiciary indicates enactment of the bill could increase the number of cases filed in district courts because any KCC order under this process would be subject to review under the Kansas Judicial Review Act. This, in turn, would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. The bill could also result in the collection of supervision fees, docket fees, and fines, which would be deposited into the State General Fund. However, the Judiciary states that a precise fiscal effect cannot be determined.

The Kansas Department of Transportation indicates that enactment of the bill could reduce multi-duct conduit, fiber projects fee revenue, but anticipates no fiscal effect on agency operations. The KCC and Citizens' Utility Ratepayers Board indicate that the enactment of the bill would not have a fiscal effect on operations for the agencies. Any fiscal effect associated with SB 439 is not reflected in *The FY 2027 Governor's Budget Report*.

The Kansas Association of Counties indicates that enactment of the bill would have a fiscal effect on county expenditures through creating set standards for various railroad right-of-way and utility facility projects. The Association states creation and enforcement of procedures would be costly for counties. The bill would require counties to construct or destroy facilities for railroads. The bill would include standard fees, liability fees, and tests that are anticipated to increase expenditures for counties. The Kansas League of Municipalities indicates that enactment of the bill would not have a fiscal effect on cities, or the fiscal effect would be negligible.

Sincerely,



Adam C. Proffitt
Director of the Budget

cc: Lynn Retz, Kansas Corporation Commission
Shonda Rabb, Citizens Utility Ratepayer Board
Brendan Yorkey, Department of Transportation
Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties
Trisha Morrow, Judiciary