

February 14, 2024

The Honorable Kellie Warren, Chairperson  
Senate Committee on Judiciary  
300 SW 10th Avenue, Room 346-S  
Topeka, Kansas 66612

Dear Senator Warren:

**SUBJECT:** Fiscal Note for SB 441 by Senate Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning SB 441 is respectfully submitted to your committee.

SB 441 would create the Fairness in Condemnation Act. The bill would require the plaintiff condemning authority to provide each owner of record of a condemned property with a written notice concerning the intended condemnation at least 60 days before filing a condemnation petition. The bill outlines the information the notice would have to include and how the notice would be delivered. The bill would require the condemning authority to present a written offer to each owner of record of the property at least 30 days before filing a condemnation petition. The plaintiff condemning authority, at the time of the offer, would be required to provide the property owner with an appraisal by a state certified or licensed appraiser or an explanation with supporting financial data for its determination of the value of the property. The bill would require a district court to make a finding that the condemning authority engaged in good faith negotiations prior to filing the condemnation petition. The bill lists certain conditions the court would consider in determining whether the condemning authority engaged in good faith negotiations. If a court finds that good faith negotiations did not occur, the court would be required to dismiss the condemnation petition and order the condemning authority to reimburse the owner for reasonable attorney fees and costs.

The Department of Transportation (KDOT) indicates enactment of the bill would lead to delays in certain projects as a result of the 60-day timeframe for condemnation petitions. Due to inflation, the agency estimates that delays could increase project costs by as much as 4.5 percent annually, which would significantly increase the costs of larger projects. The agency took a sample of 13 prior KDOT projects in which property was acquired within 60 days of letting, and construction costs for the combined projects totaled approximately \$682.0 million. A delay of six

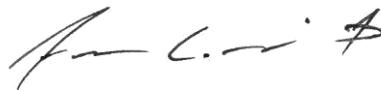
months, for example, would bring that total to over \$697.0 million. KDOT also notes that delays in projects would have indirect economic effects on businesses and taxpayers. Further, if the good faith negotiation requirements are not met, the condemnation petition would be dismissed without prejudice, which would likely lead to an additional filing by KDOT and further costly delays. The agency would also be responsible to reimburse property owners for attorney fees and costs associated with failed petitions. KDOT indicates it is unlikely that the bill could be implemented within its existing resources and staffing levels. However, a precise fiscal effect cannot be estimated.

The Office of Judicial Administration indicates enactment of the bill could increase the number of cases filed in district courts. This could 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 docket fees in cases filed under the provisions of the bill, which would be deposited into the State General Fund. However, the Office indicates it cannot provide an accurate estimate of the fiscal effect until the courts have had an opportunity to operate under the provisions of the bill. Any fiscal effect associated with SB 441 is not reflected in *The FY 2025 Governor's Budget Report*.

The League of Kansas Municipalities indicates enactment of the bill would result in increased costs to cities that carry out eminent domain proceedings. The costs would stem from mailing additional individual notices and offers required by the bill. However, a precise fiscal effect on cities cannot be estimated.

The Kansas Association of Counties states that enactment of the bill would increase costs to county governments to utilize eminent domain for infrastructure projects, which could affect the timeline or completion of such projects. However, a precise fiscal effect cannot be determined.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", with a stylized flourish at the end.

Adam C. Proffitt  
Director of the Budget

cc: Trisha Morrow, Judiciary  
Wendi Stark, League of Kansas Municipalities  
Jay Hall, Kansas Association of Counties