

March 11, 2024

The Honorable Molly Baumgardner, Chairperson
Senate Committee on Education
300 SW 10th Avenue, Room 144-S
Topeka, Kansas 66612

Dear Senator Baumgardner:

SUBJECT: Fiscal Note for SB 531 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 531 is respectfully submitted to your committee.

SB 531 would prohibit a school or an agent from promoting, presenting, or displaying any material that is harmful to minors in such a way that minors would obtain or be exposed to view the material. Any minor who obtains or views such material from a school or the parent or guardian of the child, would have a civil cause of action against the school if the employees or agents of the school gave or made available material harmful to minors or the school failed to take reasonable steps to restrict access to material harmful to minors. Any minor, parent, or legal guardian who prevails could recover \$2,500 in statutory damages, including actual damages injunctive relief, or any other appropriate relief.

The bill specifies that it would be an affirmative defense if the employee or agent of the school had reasonable belief that the minor involved was 18 years of age or older or the minor showed a draft card, driver's license, birth certificate, or other official or apparently official document purporting to show that the minor was 18 years of age or older. It would also be an affirmative defense if the employee or agent of the school verified that the minor was accompanied, at the time of the act, by the minor's parents or guardian or another adult purporting to be the minor's parent or guardian who signed a written statement to that effect.

Under current law, it is a defense to a prosecution for promoting obscenity and promoting obscenity to minors that the material was purchased or disseminated by a public, parochial, or private school. SB 531 would limit this defense to colleges and universities. Promoting obscenity is currently a class A nonperson misdemeanor and a severity level nine, person felony upon a second or subsequent conviction. Promoting obscenity to minors is currently a class A nonperson misdemeanor and a severity level eight, person felony upon a second or subsequent conviction.

The Office of Judicial Administration states enactment of the bill could increase the number of cases filed in district court because the bill's provisions would create a civil cause of action, which would increase the time spent by judges and court employees processing and researching these cases. The Office estimates that enactment of the bill could result in the collection of docket fees in those cases filed under the bill's provisions, which would be credited to the State General Fund. According to the Office, a fiscal effect cannot be estimated until the Judicial Branch has had an opportunity to operate under the bill's provisions.

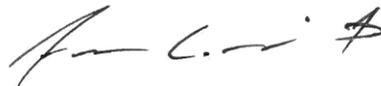
The Board of Indigents' Defense Services indicates that the bill would increase agency expenditures on legal counsel and support staff by unknown amounts. The Board estimates that on average, a severity level eight or nine, person felony case requires 35 hours of direct work by an attorney to provide constitutionally adequate representation. Based on the rates of \$83.36 per hour for public defenders and \$120 per hour for assigned counsel, each new severity level eight or nine, person felony case brought to the agency would result in State General Fund expenditures of \$2,918 to \$4,200. The fiscal effect is based on an estimate of increased workload that would result from the enactment of this bill. Because of the difficulty of judging the effect on public defense expenditures, the fiscal effect could vary within a reasonable range from the amount shown. The assumptions used by the agency for this bill could be producing a fiscal effect at the upper end of that range.

The Kansas Board of Regents states enactment of the bill could increase legal liability for postsecondary educational institutions; however, the Board does not have enough information to estimate a fiscal effect. The Department of Education states the bill would not have a fiscal effect on agency operations, if enacted.

The Sentencing Commission indicates enactment of the bill may affect prison admissions and beds; however, the affect would be negligible. The Office of the Attorney General states the bill could face a legal challenge, if enacted. The agency is unable to estimate additional funding that would be needed to defend the bill in court. Any fiscal effect associated with SB 531 is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties states the bill's enactment could have a fiscal effect on counties if local law enforcement agencies are investigating more cases as a result of the bill's enactment. The League of Kansas Municipalities states if the bill is enacted, there would be no fiscal effect to cities. The Kansas Association of School Boards estimates enactment of the bill would have a fiscal effect on school districts; however, the Association does not have enough information to provide an estimate.

Sincerely,



Adam C. Proffitt
Director of the Budget

cc: Trisha Morrow, Judiciary
Becky Pottebaum, Board of Regents
Jennifer King, Department of Corrections
Gabrielle Hull, Department of Education
Angie Stallbaumer, Kansas Association of School Boards
Scott Schultz, Kansas Sentencing Commission
Heather Cessna, Board of Indigents Defense Services
Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties
William Hendrix, Office of the Attorney General