

March 7, 2023

The Honorable Mike Petersen, Chairperson
Senate Committee on Transportation
300 SW 10th Avenue, Room 546-S
Topeka, Kansas 66612

Dear Senator Petersen:

SUBJECT: Fiscal Note for SB 215 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 215 is respectfully submitted to your committee.

SB 215 would establish the Kansas Rail Safety Improvement Act. The bill would prohibit a railroad operating in Kansas from running any train that exceeds 8,500 feet in length on any main line or branch line. The bill would also require railroads to maintain certain minimum distances from the near-edge railroad crossings to the railroad rolling stock stored on sidings. The bill would require a train crew consisting of at least two individuals.

A device warning of an impending train, locomotive, or light engine would be required in a safe space that the railroad controls and where any scrap iron, lumber, debris, or vegetation exceeds a height of four inches; there exists a marked unevenness of the terrain; or any material or condition exists that endangers any employee. The bill would require rail carriers to provide walkways adjacent to portions of yard tracks where employees regularly work performing switching services.

The bill would authorize the Kansas Department of Transportation (KDOT) to order a rail carrier to construct, when feasible, a walkway adjacent to a portion of track or modifying an existing walkway if the agency finds that rail carrier employees who regularly work near a portion of track are exposed to safety hazards because of the lack of a walkway or due to the condition of a walkway. The Secretary of Transportation would be authorized to adopt rules and regulations necessary to implement the Act's provisions.

To carry out the bill's provisions, a law enforcement officer or designee of the Secretary of Transportation could enter railroad property and inspect railroad equipment, facilities, rolling stock, operations, and relevant records. Violations of the bill's provisions would be punishable by a fine of not less than \$500, but not more than \$25,000. If a railroad is found to have committed a grossly negligent violation, or a pattern of repeated violations, the violation would be punishable

by a fine of not more than \$100,000. The bill outlines what would be required to be contained in a notice of violation. Any fine or civil penalty would be credited to the State Highway Fund.

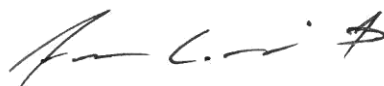
A city or county that has a railroad track constructed in its jurisdiction could petition the district court for a transfer of title and possession of the land where the track is constructed if the railroad track has been abandoned for at least three years; no train has used the track in the prior three years; and no maintenance or upkeep is being done to prevent overgrowth of vegetation on the track or the area surrounding the track.

KDOT states enactment of SB 215 would require the agency to conduct inspections of railroad premises, which could require the agency to participate in potential court proceedings if a railroad that is in violation of the bill's provisions seeks legal recourse. According to KDOT, a fiscal effect cannot be estimated because the agency does not currently have the staff to perform railroad investigatory functions. The agency also states staff time would be needed for any court proceedings; however, the agency is unable to estimate the number of positions and staff time that would be needed. KDOT states the agency is unable to estimate the amount of revenue that would be credited to the State Highway Fund from fines and civil penalties.

The Office of Judicial Administration states enactment of the bill could increase the number of cases filed in district courts because the bill's provisions would create a new violation regarding the length of trains and would allow local governments to petition the court for ownership of abandoned track, which could increase the time spent by judges and court employees processing and hearing cases. The Office also states enactment of the bill could result in the collection of docket fees and fines in those cases filed under the bill's provisions. 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. Any fiscal effect associated with SB 215 is not reflected in *The FY 2024 Governor's Budget Report*.

The League of Kansas Municipalities states the bill's enactment would not have a fiscal effect on cities. The Kansas Association of Counties states the bill's enactment could have a fiscal effect if counties could acquire land the specified railroad tracks are located on, which would give the county more land use; however, the Association notes counties would then be responsible for maintaining the tracks or cleaning up the tracks and land for another use.

Sincerely,



Adam Proffitt
Director of the Budget

cc: Brendan Yorkey, KDOT
Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties