

February 26, 2025

The Honorable Susan Humphries, Chairperson
House Committee on Judiciary
300 SW 10th Avenue, Room 582-N
Topeka, Kansas 66612

Dear Representative Humphries:

SUBJECT: Fiscal Note for HB 2187 by Representative Fairchild, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2187 is respectfully submitted to your committee.

HB 2187 would require agencies filing certain petitions for eminent domain takings to provide notice to the owner of the property at least 30 days prior to filing a petition. The bill would specify that if an agency makes a subsequent offer prior to the filing of the petition that is a greater amount than the initial good faith offer, the subsequent greater amount would be the minimum award of compensation for the property. The bill would define “agency” to mean state agencies, municipalities, public utilities, and other entities. The bill would specify that “public use” does not include the use of property for recreational trails. The bill would remove language in statute authorizing the Legislature to take land through eminent domain for private economic development purposes. The bill would also require a petition for eminent domain takings to include clear and convincing evidence that the taking is necessary, for a public use, and that the agency has authority for the taking.

Estimated State Fiscal Effect			
	FY 2025	FY 2026	FY 2027
Expenditures			
State General Fund	--	--	--
Fee Fund(s)	\$106,081	\$20,065,725	\$20,065,725
Federal Fund	--	--	--
Total Expenditures	\$106,081	\$20,065,725	\$20,065,725
Revenues			
State General Fund	--	--	--
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Revenues	--	--	--
FTE Positions	8.00	8.00	8.00

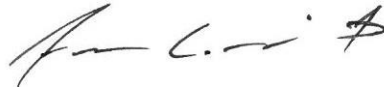
The Kansas Department of Transportation (KDOT) indicates enactment of the bill would increase the required legal standard of proof for the condemning authority to show that each taking is necessary and for a public purpose, which would require the courts to state that KDOT has fulfilled these requirements. KDOT estimates that these requirements would increase the number of tracts on each project that fail to settle and must go through the condemnation process. In the acquisition process, KDOT engages in negotiations with landowners to identify potential issues with design or construction, or potential damages. KDOT works with landowners in good faith to reach an acquisition value that is acceptable to all. If negotiations fail, the landowner may go to condemnation but risks the court appraisers returning a value lower than the one negotiated for with KDOT. KDOT indicates that this risk incentivizes landowners to actively engage in negotiations with KDOT. KDOT states that enactment of the bill would remove this incentive and would require the agency to expend resources as though landowners were actively pursuing condemnation as a result of failed negotiations.

KDOT indicates that enactment of the bill would increase expenditures by \$106,081 from the State Highway Fund to add 8.00 positions in FY 2025 to handle the increased workload. Of this amount, \$32,804 would be for 2.00 Attorney positions, \$34,493 would be for 3.00 Paralegal positions, \$38,784 would be for 3.00 Right of Way Agent positions. The FY 2025 amounts reflect expenditures for the last two months of the fiscal year. KDOT states it would need to hire the positions prior to the bill becoming effective to prepare for the increased workload. Beginning in FY 2026, KDOT estimates enactment of the bill would increase expenditures by \$20,065,725 for the 8.00 positions as well as condemnation costs. Of this amount, \$644,261 would be for the 8.00 additional positions and \$19,421,464 would be for additional condemnation costs, including estimated tract awards and appraiser's fees. KDOT states that currently, an average of approximately 40 tracts go to condemnation per year and approximately 283 tracts are purchased through eminent domain. The FY 2026 estimate assumes that all 283 tracts would go to condemnation, which would increase IKE Program project costs for land acquisition and other costs. To calculate the condemnation costs, KDOT sampled projects from the last five years that had at least one tract complete the condemnation process in its entirety. Base numbers of tracts settled and condemned, and their actual offers and awards, were averaged to gauge a per-tract cost in order to estimate a speculative cost had all tracts been condemned. KDOT notes that the estimates do not account for inflation, the costs of delaying projects, or the costs of potential safety concerns that could not be addressed timely as a result of project delays. KDOT also indicates the estimate does not include the costs of traveling to hearings, lodging, per diem, appraiser's fees for testifying on KDOT's behalf, or outside counsel costs. KDOT notes that expenditures for condemnations could be handled within existing fund limitations, but that expenditures for the 8.00 positions would require an increase to the agency operations expenditure limitation of \$106,081 in FY 2025 and \$644,261 in FY 2026.

The Office of Judicial Administration indicates enactment of the bill would have a minimal fiscal effect that could be absorbed within existing resources. The Kansas Corporation Commission and the Citizens' Utility Ratepayer Board indicate enactment of the bill would not have a fiscal effect. Any fiscal effect associated with HB 2187 is not reflected in *The FY 2026 Governor's Budget Report*.

The League of Kansas Municipalities and the Kansas Association of Counties indicates enactment of the bill would not have a fiscal effect on cities or counties.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt", followed by a stylized flourish or symbol.

Adam C. Proffitt
Director of the Budget

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