

February 16, 2026

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

Dear Senator Erickson:

SUBJECT: Fiscal Note for SB 441 by Senate Committee on Education

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

SB 441 would enact the Applied Behavior Analysis Services in School Act. No school district could prohibit a private provider from providing medically necessary behavioral health services during school hours to students. The parent would be required to provide the school district with an evaluation performed and an assessment and treatment plan chosen by the parent that shows that services are necessary during school hours. The parent would have to consent to release information in a manner determined by the school district that would authorize the release of information between the private provider and the school district.

The school district would be required to evaluate the medically necessary behavioral health services to determine how the services can be integrated with the student's schooling. Any services would be in addition to services provided by a student's individual education program (IEP). No school district could use the obligation of a student's IEP to limit or deny access to services from a private provider.

A school district may utilize a review process to evaluate a parent's request for medically necessary services under the Americans with Disability Act. If medically necessary services are requested for a student who does not have an IEP, the school district may initiate an appropriate evaluation to determine if the student is entitled to services under federal law. No evaluation, assessment, or treatment plan administered by a school district could supersede the services provided by the provider chosen by the student's parent. If there is a dispute between the school

district and parent, the parties would be required to engage in a dispute resolution process determined by the State Board of Education.

The cost of all medically necessary services provided by the private provider would be the sole responsibility of the student’s parent or other third-party provider. A school district would be immune from liability in any civil action that arises from any actions taken by a private provider while the provider is providing applied behavior analysis to a student on school district property.

No individual who has been convicted, pleaded no contest, or entered into a criminal diversion agreement after having been charged with a crime as outlined by KSA 72-2165, could be allowed to provide medically necessary behavioral health services to a student during school hours. Prior to providing services, a school district would have to require a private provider to be fingerprinted and submit to a state and national criminal history record check. A private provider would be required to maintain general liability insurance coverage to be determined by the local board of education of not more than \$1.0 million. The bill would outline requirements for a school district’s policies for implementing provisions of the bill.

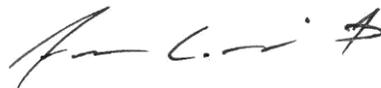
Estimated State Fiscal Effect			
	FY 2026	FY 2027	FY 2028
Expenditures			
State General Fund	--	\$178,862	\$187,805
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Expenditures	--	\$178,862	\$187,805
Revenues			
State General Fund	--	--	--
Fee Fund(s)	--	--	--
Federal Fund	--	--	--
Total Revenues	--	--	--
FTE Positions	--	2.00	2.00

The Department of Education indicates that the enactment of SB 441 would require the State Board of Education to develop a separate dispute resolution process and would require an additional 2.00 FTE positions and \$178,862 from the State General Fund. This estimate includes 1.00 FTE Attorney at \$113,350 and 1.00 FTE Administrative Assistant at \$59,012 (both including fringe benefits), \$4,000 for capital outlay expenditures, and \$2,500 for travel and subsistence reimbursement expenditures for the Attorney position. For FY 2028, assuming a 5.0 percent increase for fringe benefits and inflation, the total cost of these positions would be \$187,805, all from the State General Fund.

The Kansas Bureau of Investigation indicates that any additional revenue received from the required state and national criminal history record checks would be offset by expenditures related to the staffing and maintenance of the required systems for the criminal history record information. Any fiscal effect associated with SB 441 is not reflected in *The FY 2027 Governor's Budget Report*.

The Kansas Association of School Boards indicates that the enactment of the bill would increase school district risk associated with student confidentiality. School districts must adhere to the requirements of the federal Family Educational Rights and Privacy Act, as well as the federal Individuals with Disabilities in Education Act. When third-party providers do not safeguard data, the school districts can potentially lose federal funding. In addition, the Association indicates that there are potential risks for third-party providers when operating on school grounds. Allowing for-profit providers to deliver medically prescribed treatment on school grounds can create risks, including commercial use of public facilities, access and equity issues, and misalignment with education purposes. For commercial use of public facilities, the Association states that public schools operate under tax-exempt status and must avoid activities that could provide a private benefit to for-profit organizations, which could be at risk with the provisions of the bill. For access and equity issues, the Association reports that when a school is used for a site of a for-profit organization providing commercial therapy, there is potential for advantaging students whose families can afford private clinical services. Finally, for misalignment with education purposes, the Association indicates that shifting the academic environment away from an education setting may not serve the instructional needs of the larger student population. However, a fiscal effect was not estimated.

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: Gabrielle Hull, Department of Education
Angie Stallbaumer, Kansas Association of School Boards
Paul Weisgerber, Kansas Bureau of Investigation