

February 14, 2023

The Honorable Beverly Gossage, Chairperson
Senate Committee on Public Health and Welfare
300 SW 10th Avenue, Room 142-S
Topeka, Kansas 66612

Dear Senator Gossage:

SUBJECT: Fiscal Note for SB 180 by Senate Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning SB 180 is respectfully submitted to your committee.

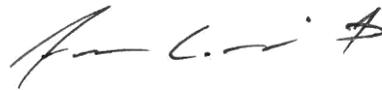
SB 180 would establish the Women's Bill of Rights and would specify that for purposes of any state law or rules and regulations and individual's "sex" means such individual's biological sex, either male or female, at birth. The bill would also define several other related terms and would state that with respect to biological sex, separate accommodations are not inherently unequal. The bill would state that laws, and rules and regulations, that distinguish between the sexes are subject to intermediate constitutional scrutiny. SB 180 would also require schools, state agencies, or political subdivisions that collect vital statistics to identify individuals within the data as either male or female at birth.

The Kansas State Department of Education estimates enactment of SB 180 would have a limited fiscal effect for school districts, a total effect could not be estimated. The bill could have a fiscal effect on Kansas Board of Regents institutions if the language conflicted with NCAA or other higher education related policies or laws. Kansas higher education institutions could lose the ability to host events, which would decrease revenues, but the extent of that effect is unknown.

The Office of the Attorney General states that the constitutionality of the legislation is likely to be challenged and would likely need to go through the appellate process for a definitive ruling on the validity of the law. The litigation could be ongoing for two to four years depending on the court system. The defense could be handled by agency staff using existing resources, but there is a potential need for specialized outside counsel. If a challenge was successful, the state could be ordered to pay plaintiff's attorney fees and costs as well. A total fiscal effect could not be estimated.

The Kansas Office of Judicial Administration states enactment of the bill would have a negligible fiscal effect on expenditures and revenue for the Judicial Branch. According to the Kansas Department of Health and Environment and the Kansas Human Rights Commission, enactment of SB 180 would not result in a fiscal effect on the operations of either of the respective agencies. Any fiscal effect associated with SB 180 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

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

Adam Proffitt
Director of the Budget

cc: Amy Penrod, Department of Health & Environment
Craig Neuenswander, Department of Education
Becky Pottebaum, Board of Regents
Ruth Glover, Human Rights Commission
John Milburn, Office of the Attorney General
Vicki Jacobsen, Judiciary