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March 4, 2025

The Honorable Sean Tarwater, Chairperson
House Committee on Commerce, Labor and Economic Development
300 SW 10th Avenue, Room 346-S
Topeka, Kansas 66612

Dear Representative Tarwater:

SUBJECT: Fiscal Note for HB 2308 by House Committee on Commerce, Labor and Economic Development

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2308 is respectfully submitted to your committee.

HB 2308 would enact the Aviation and Innovative Manufacturing in Kansas Act and establish the Aviation and Innovative Manufacturing in Kansas Program to be administered by the Department of Commerce. The purpose of this program would be to attract businesses engaged in electric motor vehicle and hydrogen-powered vehicle production industries, aircraft assembly, or other qualified activities to build new business facilities and operations, research and development operations, or new headquarters in Kansas and to encourage the development of a Kansas-based supply chain for these enterprises. A qualifying company would be required to make a qualified business facility investment of at least $250.0 million completed within five years, hire a minimum of 250 new employees within five years after the start of commercial operations with starting wages at least 100.0 percent of the county median wage of the county where the employees are employed, and to retain the number of new employees for ten years.

A qualifying company would be eligible for a tax credit of up to 10.0 percent for the qualified investment that occurs during that tax year that would be spread out in equal amounts over no less than the next five tax years. The Secretary of Commerce would have discretion on the amount of years that the tax credit would be spread out over and the percentage of the tax credit; however, if the qualified project occurs in a non-metropolitan county (counties other than Douglas, Johnson, Sedgwick, Shawnee, or Wyandotte), then the tax credit would automatically be 10.0 percent of the qualified investment. The bill includes claw back provisions if the qualified investment is less than 90.0 percent of the required amount.

A qualifying company would be eligible to retain or be refunded up to 100.0 percent of the qualified company's Kansas payroll withholding taxes for up to ten years. The Secretary of Commerce would have discretion on the amount of tax years and the percentage amount that the qualified company would be able to claim this benefit. For each year that the agreement is in effect, the Secretary of Commerce would certify to the Secretary of Revenue that the qualified company is eligible to receive benefits under the Act and the terms of the agreement; the number of employees; the amount of gross wages being paid to each employee; and the percentage of payroll withholding taxes to be retained by the qualified company. The bill includes claw back provisions if the qualified company fails to maintain at least 90.0 percent of the required new employment commitment.

A qualifying company would be eligible for reimbursement for up to one year of training and education eligible expenses for training or education completed by each new employee. The maximum amount of reimbursement paid to a qualified company would be limited to $5.0 million per qualifying project. The training would be in Kansas at any Kansas community college or technical college with an agreement with the qualified company. The curriculum would be provided by the qualified company. Only training and education expenses for new employees that would establish residency in Kansas by the completion of the training or education program and are employed in Kansas at a qualified business facility that is located and operating in Kansas would be eligible for reimbursement. The bill would establish the Aviation and Innovative Manufacturing in Kansas Act New Employee Training and Education Fund. The funding for reimbursement of education and training costs is not included in this bill and would be part of the budget process.

A qualifying company would be eligible for a sales tax exemption for the purpose of constructing, reconstructing, enlarging, or remodeling a qualified business facility. The qualified company would apply for the sales tax exemption to the Department of Commerce who would notify the Department of Revenue that the sales tax exemption has been granted. The sales tax exemption would apply to the sale and installation of certain machinery and equipment purchased by the qualifying company. The sales tax exemption would also be extended to any contractor hired for the constructing, reconstructing, enlarging, or remodeling of a qualifying company. The bill includes reporting requirements for contractors and penalties for the use of the sales tax exemption that is determined to not be part of this project which would be punishable as a misdemeanor. The bill includes definitions, reporting requirements, and claw back provisions.

A qualified company could also receive a Kansas First Benefit that would provide up to $1.0 million to the qualified company for every $20.0 million of procurement of goods or services made in a fiscal year from one or more Kansas companies that are not affiliated with the qualified company. The Kansas company or companies that are used for the procurement would be required to be registered with the Secretary of State and legally conducting business within Kansas, have the principal place of business in Kansas, and be in good standing. The Department of Commerce would verify and approve the amount of procurement and that the qualified company and the Kansas company or companies meet the requirements of the Act prior to receiving any payment of this benefit. The Kansas First Benefit could be claimed by a qualified company once in a fiscal year and would be limited to three separate claims per qualified company based on procurement made in a fiscal year. The bill would authorize the transfer of $5.0 million from the State General Fund to the new Aviation and Innovative Manufacturing in Kansas Act Kansas First Fund on July 1, 2025. The Secretary of Commerce would be authorized to prorate claims to the Aviation and Innovative Manufacturing in Kansas Act Kansas First Fund if approved claims are higher than $5.0 million

The Department of Commerce would be required to submit an annual report on the Act that includes the names of qualified companies, the types of qualified companies utilizing the Act; the location of each company and the location, description, and economic and industry impact of such companies' business operations in Kansas; the cumulative number of new employees hired and the new employees hired in that calendar year for each qualified company; the number of employees who reside in Kansas and the number of employees who reside in other states, designated with respect to each other and the number of employees who have relocated to Kansas from another state; the wages paid for those new employees; the annual and cumulative amount of investments made; the annual amount of each benefit provided under this Act; the estimated net state fiscal impact, including the direct and indirect new state taxes derived from the new employees hired; an estimate of the multiplier effect on the Kansas economy of the benefits received under this act; and any material defaults by a qualified company of the terms of any agreement. The report would be submitted to the Governor, Senate Committee on Assessment and Taxation, Senate Committee on Commerce, House Committee on Taxation, and House Committee on Commerce, Labor and Economic Development or before January 31 of each year.

Certain confidential financial information or trade secrets would not be disclosed to the public and would be an exception to the Open Records Act; however, this information can be requested by Legislative Division of Post Audit. This confidentiality provision would expire on July 1, 2030, unless renewed by the Legislature. As a condition of receiving benefits, the qualified company would be required to agree to cooperate with any audit undertaken by the Secretary of Revenue. The Secretary of Commerce would be required to conduct an annual review of the qualified firm and certify to the Secretary of Revenue that the qualified firm is in good standing with the state; remains in compliance with the provisions of this Act, adopted rules and regulations, and any agreement; and continues to meet the requirements for benefits. The Secretary of Commerce and the Secretary of Revenue would have the power to write rules and regulations to implement the Act. The Secretary of Commerce would not be able to enter into an agreement with a qualified company after December 31, 2027. The bill would become effective on July 1, 2025.

The Department of Revenue estimates that HB 2308 has the potential to decrease state and local sales tax revenues by unknown amounts beginning in FY 2026. The state funds directly affected by this bill would be the State General Fund and the State Highway Fund. However, the Department does not have sufficient information on how many businesses would qualify for benefits under this bill or how long they would qualify for these benefits to make a precise estimate of the reduction to state and local sales tax revenues.

The investment credits and reimbursement for training expenses are each expected to be claimed over the five years of investment allowed by the bill. If an agreement is made for a 10.0 percent tax credit for a project with $250.0 million investment, there would be $5.0 million credits allowed each year for five years. If the project fully utilizes its allowed training reimbursement, this would have an additional $1.0 million impact for each of the five years.

The Department of Revenue does not have sufficient data to estimate the fiscal impact of any withheld payroll taxes. If the qualified company is from within Kansas already, the impact would be an unknown reduction of State General Fund revenues.

Assuming that a qualified business facility is original construction, the labor costs associated with the project would already be exempt under current law. Since the details of any potential projects are unknown, it is assumed that material costs associated with a project would be similar to those under the Enterprise Zone exemption at 60.0 percent. Under this scenario, at a rate of 6.5 percent, a $250.0 million project could result in sales tax foregone of $9.8 million, including $8.0 million from the State General Fund and $1.8 million from the State Highway Fund. The unknown fiscal effect would be realized over the five-year investment period. This portion of the bill is also estimated to decrease local sales tax revenues; however, the specific estimate of lower local sales tax revenues was not calculated by the Department of Revenue.

The bill would reduce State General Fund revenues by $5.0 million by authorizing the transfer of $5.0 million from the State General Fund to the Aviation and Innovative Manufacturing in Kansas Act Kansas First Fund in FY 2026.

The Department of Revenue indicates that the bill would require $274,558 from the State General Fund in FY 2026 to implement the bill and to modify the automated tax system. The bill would require the Department to hire 2.00 new FTE positions to answer questions from taxpayers and to assist with the administration of this new program. The Department estimates that ongoing expenses for salaries and wages for the 2.00 FTE positions and overhead expenses would total $144,363 from the State General Fund in FY 2027. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Insurance Department indicates that if insurance companies claim this tax credit, then it would reduce insurance premiums taxes collections that are distributed to the Start General Fund (99.0 percent) and the Insurance Service Regulation Fund (1.0 percent). The Insurance Department indicates that the costs to implement the bill would be negligible and could be absorbed within existing resources

The Department of Commerce indicates that it is currently provides a wide array of services and resources to help businesses locate, expand, hire, invest, and grow in Kansas. The Department may be required to answer questions from companies, review applications, and track and report performance measurers; however, those costs could be absorbed within existing staff levels and resources.

The Kansas Department of Transportation (KDOT) indicates that the bill would reduce state revenues to the State Highway Fund as noted above. KDOT indicates that when the state receives fewer State Highway Fund dollars it may be required to make corresponding reductions to planned expenditures for projects funded under the comprehensive transportation plan. Any fiscal effect associated with HB 2308 is not reflected in *The FY 2026 Governor's Budget Report*.

The Kansas Association of Counties and the League of Kansas Municipalities indicate that the bill would provide a net reduction to local sales tax collections that are used in part to finance local governments.

Sincerely,

Adam C. Proffitt
Director of the Budget

cc: Lynn Robinson, Department of Revenue
Sherry Rentfro, Department of Commerce
Kyle Strathman, Insurance Department
Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties
Brendan Yorkey, Department of Transportation