Landon State Office Building
900 SW Jackson Street, Room 504
Topeka, KS 66612

Kansas
Division of the Budget

Phone: (785) 296-2436
Fax: (785) 296-0231
shawn.sullivan@budget.ks.gov

Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

March 23, 2015

The Honorable Julia Lynn, Chairperson
Senate Committee on Commerce
Statehouse, Room 445-S
Topeka, Kansas 66612

Dear Senator Lynn:

SUBJECT: Fiscal Note for SB 210 by Senator Hensley, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning SB 210 is respectfully submitted to your committee.

SB 210 would require that any contractor entering into a state contract employ a sufficient number of Kansas workers. The bill would require that at least 70.0 percent of the workers assigned to the contract be from Kansas. All state agencies would provide a copy of any state contract to the Division of Purchasing of the Department of Administration for verification that the contractor is in compliance with the employment requirements of SB 210. An employee who performs work under a state contract and who is not from Kansas may be exempt from the requirements of the bill if the employee provides expertise in a field necessary to fulfill the contractor's contractual obligations. The contractor would submit an application to the Division of Purchasing detailing why the employee is an expert in a specified field. The Division of Purchasing would determine whether the employee would be exempt from the provisions of the bill. This bill would affect contracts from state agencies with expenditures of $100,000 or more, excluding lease agreements, lease-purchase agreements, and agreements entered solely for the acquisition of goods or commodities by the state agency effective on and after January 1, 2016.

At least 70.0 percent of a contractor's workforce assigned to a STAR bond project would have to be from Kansas beginning on and after January 1, 2016. All contractors subject to the provisions in SB 210 would provide personnel information to the Department of Commerce to ensure that the contractor is in compliance with the provisions in the bill. The Department would notify the city or county proposing the STAR bond project of any contractor that is not in compliance with the provisions in the bill. The city or county would then either provide the contractor an opportunity to correct the noncompliance within a reasonable time or terminate the contract.

Beginning on and after January 1, 2016, 70.0 percent of a qualified firm's workforce would have to be from Kansas when applying for the HPIP Training and Education Credit. The same requirement would also apply to qualified companies who apply for Promoting Employment Across Kansas (PEAK) benefits and qualified business facilities applying for the Business and Job Development Credit beginning on and after January 1, 2016. The bill would also require that taxpayers claiming these tax credits to provide personnel information as required by the Secretary of Revenue for the purpose of verifying the number of Kansas workers.

The Department of Revenue indicates the bill would promote the hiring of Kansas workers and increase employment in the State of Kansas, which would result in more income tax and sales tax revenues to the State General Fund. The Department also indicates the employment requirement could increase project costs in government contracts and reduce business efficiencies for the companies applying for certain tax benefits. The Department of Revenue cannot estimate fiscal effect for the bill.

The Department of Commerce indicates it would require $75,000 from the State General Fund to implement this new program in FY 2016 and to allow the agency to comply with the reporting, auditing, and compliance requirements of the bill. The agency indicates that it would hire 1.00 new FTE position to manage this program at a cost of $68,500 for salary and wages. The agency would also require $6,500 for workstation setup, travel costs, and training expenses. Additionally, existing staff would need to prepare and promulgate regulations for the reporting and compliance requirement in the bill.

The Department of Administration indicates that it would need $53,000 in FY 2016 and $103,000 in FY 2017 to implement the provisions of SB 210. Of the FY 2016 amount, the agency would hire 2.00 new FTE positions to review contracts and to certify that state contractors comply with the provisions of the bill at a cost of $47,226; $2,774 would be for workstation setup and estimated expenses for additional administrative hearings; and $3,000 would be for one-time costs for computers and office furniture for the additional FTE positions. The agency's estimated FY 2016 fiscal effect is only for the last half of the fiscal year, as many of the bill's provisions become effective on January 1, 2016. For FY 2017, the agency estimates $94,452 would be needed for salaries and wages for the additional FTE positions and $8,548 would be needed for workstation setup and additional administrative hearings. The additional expenditures would come from agency fee funds.

The Kansas Board of Regents states passage of SB 210 would increase costs for state universities. The bill would create additional reporting requirements on contracts over $100,000, which would include several building, construction, and consulting projects. To implement the tracking and reporting requirements in SB 210, the Board estimates it would require additional staffing at each of the state universities estimated at $500,000. The Board did not provide a breakdown of the total costs at each of the universities.

The Kansas Department of Transportation (KDOT) states enactment of SB 210 would require the agency to have contract provisions requiring at least 70.0 percent of all employees working under the contract to be Kansas residents. According to KDOT, passage of SB 210 would put the agency in conflict with federal legislation stating that no requirements could be imposed to discriminate against the employment of labor from any other state. The bill would also be in conflict with federal legislation stating that qualification-based selection of consultant engineering contracts would assure that in-state and out-of-state consultants are given a fair opportunity to be considered for an award. The agency states that being in conflict with federal legislation would result in a loss of federal funding and would require KDOT to reexamine the entire Transportation Works for Kansas Program. KDOT estimates passage of SB 210 would result in federal fund reductions of $329.4 million in FY 2015, $364.6 million in FY 2016, and $363.1 million in FY 2017.

The Department for Children and Families states several agency contracts involve out-of-state companies whose employees would fail the 70.0 percent Kansas employee requirement; however, these contracts are essential to meeting basic federal requirements. The Department is unable to estimate a precise fiscal effect.

The League of Kansas Municipalities states it cannot determine the fiscal effect of SB 210. Any fiscal effect associated with SB 210 is not reflected in *The FY 2016 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Jack Smith, Department of Revenue
Colleen Becker, Department of Administration
Dan Lara, Commerce
Larry Baer, League of Municipalities
Ben Cleeves, Transportation
Jackie Aubert, Children & Families
Aaron Dunkel, Health & Environment
Kelly Oliver, Board of Regents