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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

June 9, 2017

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

Dear Senator Lynn:

SUBJECT: Fiscal Note for SB 230 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 230 is respectfully submitted to your committee.

Under current law, the High Performance Incentive Program (HPIP) provides certified companies a 10.0 percent income tax credit for eligible capital investments that exceed $50,000 ($1.0 million in five metro counties); a sales tax exemption to use in conjunction with the company's eligible capital investment at its qualified facility; and training and education tax credit of up to $50,000. SB 230 would prohibit the Secretary of Commerce from certifying initial HPIP applications from tax year 2018 through tax year 2020.

The Department of Revenue estimates that SB 230 has the potential to prevent a revenue decrease of approximately $7,650,000 in FY 2018 and $25.3 million in FY 2019. Of those totals, the State General Fund accounts for $6,410,000 in FY 2018 and for $12,830,000 in FY 2019, while the State Highway Fund accounts for $1,240,000 in FY 2018 and for $2,470,000 in FY 2019. The potential fiscal effect to state revenues during subsequent years would be as follows:

	FY 2020	FY 2021
State General Fund	$22,830,000	$16,410,000
State Highway Fund	2,470,000	1,240,000
	$25,300,000	$17,650,000

To formulate these estimates, the Department of Revenue reviewed data on the HPIP Program that is managed by the Department of Commerce. The Department of Revenue indicates that taxpayers annually claim an average of $57.0 million from the 10.0 percent HPIP income tax credit for eligible capital investments and exempts an average of $109.0 million from the state sales tax exemption associated with HPIP certified projects. The bill is unclear if only new HPIP certifications are prohibited or if currently certified entities would be allowed to recertify their job sites. The Department of Revenue indicates that it interprets the language of the bill that only new certifications would be prohibited and currently certified entities would be allowed to recertify their job sites. The Department of Revenue indicates that approximately 14.0 percent of all HPIP certifications were from new certifications in tax year 2016. If it is assumed that 14.0 percent of new HPIP projects that would not qualify for tax benefits under the bill, then approximately $8.0 million in income tax credits would not be earned from the 10.0 percent income tax credit for eligible capital investments and $15.3 million in state sales tax would not be exempted in each tax year of the moratorium. The bill would also eliminate approximately $2.0 million in training and education tax credits that would no longer be claimed each tax year of the moratorium.

Because the moratorium starts on January 1, 2018, the fiscal effect would include only half of the fully annualized amount in FY 2018 from the retail sales tax exemption. The prohibition of new income tax credits would not have a fiscal effect until FY 2019. The fiscal effect for FY 2018 includes $6,410,000 from the State General Fund for the sales tax exemption and $1,240,000 from the State Highway Fund for the sales tax exemption. For FY 2019, the fiscal effect includes $8.0 million from the State General Fund for the 10.0 percent income tax credit for eligible capital investments, $2.0 million for the training and education tax credit, $12,830,000 million from the State General Fund for the sales tax exemption, and $2,470,000 from the State Highway Fund for the sales tax exemption. This bill also is estimated to prevent a decrease in local sales tax revenues; however, the specific amount was not calculated by the Department of Revenue. The fiscal note uses averages to estimate the total fiscal effect; however, the fiscal effect has the potential to be higher or lower in each fiscal year depending on the level of HPIP projects in that year or the amount of tax credits that could be claimed in a future tax year. It is unknown how many companies would no longer make capital investments in Kansas during the HPIP moratorium.

The Department indicates that the bill would require $2,400 from the State General Fund in FY 2018 to implement the bill and make changes to the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. However, 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 Department of Commerce indicates that a December 2014 audit from the Legislative Division of Post Audit calculated that the HPIP Program has 56:1 return on investment and creates positive economic impact to the state of approximately $491.0 million per year. The Department indicates that this positive impact would be delayed or eliminated in part under the provisions of the bill. In addition, the Department indicates that it receives approximately 45 applications for HPIP benefits each year that generate approximately $33,750 from the $750 application fee that would not be generated each year during the moratorium.

The Kansas Department of Transportation indicates that the bill has the potential to increase state revenues to the State Highway Fund as noted above. The additional revenues would fund additional expenditures for projects funded under the comprehensive transportation plan, known as T-WORKS.

The Kansas Association of Counties and the League of Kansas Municipalities indicate that the bill has the potential to provide a net increase to local sales tax collections that are used in part to finance local governments. Any fiscal effect associated with SB 230 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Bob North, Commerce
Lynn Robinson, Department of Revenue
Ben Cleeves, Transportation
Larry Baer, League of Municipalities
Melissa Wangemann, Association of Counties