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Laura Kelly, Governor

April 25, 2023

The Honorable Renee Erickson, Chairperson
Senate Committee on Commerce
300 SW 10th Avenue, Room 546-S
Topeka, Kansas 66612

Dear Senator Erickson:

SUBJECT: Fiscal Note for SB 325 by Senate Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 325 is respectfully submitted to your committee.

SB 325 would enact the Transformation of Passenger and Freight Vehicle Industry Act (Act). The Act would establish the Transformation of Passenger and Freight Vehicle Industry Program to be administered by the Department of Commerce. The purpose of the program would be to attract businesses engaged in electric motor vehicle and hydrogen-powered vehicle production industries to build new business facilities and operations, research and development operations, or new national headquarters in Kansas and to encourage the development of a Kansas-based supply chain for those enterprises. Under the program, qualified companies would be eligible for various incentives including investment tax credits up to 10.0 percent of qualified investments, retention of up to 100.0 percent of withholding taxes, reimbursement of eligible employee training and education expenses up to $5.0 million per qualifying project, and sales tax exemptions for construction costs of a business facility until construction of the facility is completed. To be eligible for these incentives a qualified company would have to:

1. Submit an application describing the proposed project that achieves the purposes of the Act;
2. Complete the project within five years of the date specified in the agreement with the Secretary of Commerce;
3. Hire a minimum of 250 new employees within those five years;
4. Retain new employees for a period determined by the Secretary;

5. If the qualified company proposes to construct a qualified business facility for an electric motor vehicle and hydrogen-powered vehicle assembly operation project, make an investment of at least $250.0 million to be completed within five years from the date specified in the agreement with the Secretary;
6. If requested by the Secretary, prior to making a commitment to invest in a qualified business facility, submit a certificate of intent to invest in the facility, if the application is approved by the Secretary;
7. Enter into a binding agreement with the Secretary with terms and conditions required by the Secretary by December 31, 2026; and
8. Commit to repay any benefits received with a term or condition of the agreement that has been breached.

The Secretary would also be required to certify to the Secretary of Revenue that the company meets the criteria for designation as a qualified company and is eligible for those benefits. The bill would also authorize the Secretary to request the Department of Revenue to audit the qualified company for compliance with provisions of the Act. On or before January 31 of each year, the Secretary would also be required to file a report based on information received from the qualified company and other detailed information listed in the bill. The report would go 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.

The Department of Revenue estimates SB 325 would decrease State General Fund revenues by at least $10.5 million in FY 2025, $5.5 million in FY 2026 through FY 2029 and $500,000 in FY 2030 through FY 2034. The Department assumes the 10.0 percent refundable investment tax credit, for an investment of at least $250.0 million, if the qualified company claimed the tax credit beginning in tax year 2025, would cost the state $5.0 million a year for five years. ((10.0 percent x $250.0 million) ÷ 5 years = $5.0 million). The bill would also allow the qualified company to retain up to 100.0 percent of employees' withholding taxes for ten years if the company has at least 250 jobs at a wage equal to 120.0 percent of the county's median wage. The Department estimates the qualified company could retain about $500,000 a year for ten years which would reduce State General Fund revenue by $500,000 for 10 years beginning in FY 2025. This calculation assumes the company's average wage was $50,000 and an average withholding rate of 4.0 percent. ($50,000 x 250 employees x 4.0 percent = $500,000). The bill would also provide for reimbursement of training and education expenses for one year. The Department assumes the company would claim the maximum reimbursement of $5.0 million in FY 2025. The Department's total estimate assumes one qualified company would be approved under the Act. The Department did not estimate how many businesses the Department of Commerce would approve under the Act.

The Department of Revenue indicates the bill has the potential to decrease state and local sales tax revenues by unknown amounts beginning in FY 2024. The bill would allow the sales tax exemption for constructing, reconstructing, enlarging, or remodeling a qualified business facility for an electric or hydrogen motor vehicle assembly operation project. The state funds directly affected by this bill are the State General Fund and the State Highway Fund. However, the Department does not have sufficient information on the purchases by the qualified business facility to make a precise estimate of the amount of reduced state and local sales tax revenues under the provisions of the bill.

The Department indicates that the bill would require $184,855 from the State General Fund in FY 2024 to implement the bill and to modify the automated tax system. 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 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 lower State Highway Fund dollars it may be required to make corresponding reductions to planned expenditures for projects funded under the comprehensive transportation plan. The Department of Commerce indicates SB 325 would not have a fiscal effect on its operations. Any fiscal effect associated with SB 325 is not reflected in *The FY 2024 Governor's Budget Report*.

The League of Kansas Municipalities and the Kansas Association of Counties indicate that the bill has the potential to decrease local sales tax revenues that are used in part to finance local governments. If a project is in STAR bond district, the bill also has the potential to reduce revenues that are pledged to repay STAR bond projects; however, it is unknown what impact this bill would have on the viability of those projects.

Sincerely,

Adam Proffitt
Director of the Budget

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