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Adam C. Proffitt, Director

Laura Kelly, Governor

February 4, 2025

The Honorable Larry Alley, Chairperson
Senate Committee on Commerce
300 SW 10th Avenue, Room 159-S
Topeka, Kansas 66612

Dear Senator Alley:

SUBJECT: Fiscal Note for SB 52 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 52 is respectfully submitted to your committee.

SB 52 would enact the Kansas Film and Digital Media Production Development Act. The purpose of the Act would be to incentivize film, video, or digital media productions in Kansas and facilitate the development and growth of a film, video, or digital media production industry and associated businesses supporting the industry in this state. The Act would create the Kansas Film and Digital Media Industry Development Program at the Department of Commerce with the assistance of the Kansas Creative Arts Industries Commission.

The Act would provide an income tax credit not to exceed $10.0 million per tax year for production companies approved by the Department of Commerce, including the requirement that at least 10.0 percent of the total tax credits approved each year would be for Kansas-based production companies. Eligible production companies could be eligible for a 30.0 percent income tax credit for qualified production and certain postproduction expenditures. If the tax credit amount exceeds the taxpayer's income tax liability for that taxable year, the amount that exceeds the Kansas income tax liability could be carried forward for up to ten years. The Secretary of Commerce could approve additional credits as follows:

1. The amount of the tax credits could increase by up to 5.0 percent if the qualified production expenditures are for a certified muti-film deal, a certified eligible television series, a certified high-impact production, or contributes to the film-related infrastructure or workforce development in Kansas.

2. The amount of the tax credits could increase by up to 5.0 percent if 50.0 percent or more of the crew or above-the-line personnel are Kansas residents.
3. The amount of the tax credits could increase by up to 5.0 percent if a production company previously received an income tax credit.

The Act caps the maximum income tax credit amount to 40.0 percent of total qualified production expenditures or qualified postproduction expenditures made by the production company for the certified project during that taxable year. The Act includes minimum production expenses and other requirements in order to qualify for the income tax credits. The Act would allow the tax credit to be transferred under certain conditions. The Act also would allow certain Kansas-based production companies that incur at least $25,000 in qualified expenditures on a certified production not intended for multimarket distribution but that otherwise would be qualified expenditures and meets all other qualifications for a tax credit to receive a 25.0 percent tax credit. If the tax credit amount exceeds the taxpayer's income tax liability for that taxable year, the amount that exceeds the Kansas income tax liability could be carried forward for up to ten years.

The bill would also exempt from sales tax purchases of tangible personal property or services for the purpose of a certified project by a production company that meet the requirements of the Act. The sales tax exemption would also be extended for any contractor hired for the construction, reconstruction, enlarging, or remodeling of facilities used for a certified project that would qualify as a production or postproduction expenditure. 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 contractor would also be required to pay the retail sales and compensating use tax for materials purchased but not used or were returned for credit. Failure by the contractor to make the payment would make the production company liable for payments. The sales tax exemption and income tax credit provisions of the bill would sunset prior to January 1, 2035.

The Department of Revenue and the Department of Commerce would both have the authority to write rules and regulations to implement the Act. The Department of Commerce would be required to submit an annual report to the House Committee on Commerce, Labor and Economic Development, House Committee on Taxation, Senate Committee on Commerce, and Senate Committee on Assessment and Taxation. The annual report would include the amounts and recipients of the tax incentives for the prior fiscal year and to the date of the report, anticipated tax incentive amounts for the current fiscal year, the production companies that have applied for and that have been certified for projects, a description of ongoing and completed projects, and the impact of the projects and the program on the film, video, or digital production industry in Kansas.

The Department of Revenue estimates that SB 52 would decrease State General Fund revenues by $10.0 million in FY 2026, and in each future fiscal year through FY 2035. The Department of Revenue indicates that the Department of Commerce would review and approve film incentive projects that could be eligible for this new income tax credit program. The Department of Revenue assumes that the full amount of $10.0 million in allowable credits would be awarded by the Department of Commerce each fiscal year. The Department of Revenue would issue project exemption certificates for the sale tax exemption component of the film incentive package. However, the Department of Revenue does not have data on the number of film productions that would qualify for the sales tax exemption to provide an estimate for this component of the bill.

The Department of Revenue indicates that it would require a total $170,855 from the State General Fund in FY 2026 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 by unknown amounts. 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 52 would not have a fiscal effect on agency operations. Any fiscal effect associated with SB 52 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 has the potential to provide a net reduction to local sales tax collections that are used in part to finance local governments. However, depending on the overall level of film, video, or digital media production expenditures, the bill has the potential to increase economic development and employment opportunities for Kansas communities.

Sincerely,

Adam C. Proffitt
Director of the Budget

cc: Sherry Rentfro, Department of Commerce
Jay Hall, Kansas Association of Counties