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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

April 18, 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 176 by Senator Hensley, et al.

In accordance with KSA 75-3715a, the following fiscal note concerning SB 176 is respectfully submitted to your committee.

SB 176 would establish the Kansas Buy American Act, which would be administered by the Department of Administration. The bill would require each contract for construction, repair, improvement or maintenance of a public building or a public work made by a state agency to contain a provision that the iron, steel, and manufactured goods used or supplied shall be or have been manufactured in the United States. "Public works" would be defined to mean any highways, transportation systems, and airports owned or leased by a state agency. State agencies would be required to give preference to goods that are manufactured in Kansas when possible.

State agencies could receive a waiver from the requirements of the bill if the provisions would be inconsistent with the public interest; the materials are not produced in the Unites States in sufficient quantities; or the inclusion of domestic material would increase the cost of the contract by more than 25.0 percent. If an agency receives a request for a waiver, the Secretary of Administration would be required to provide an opportunity for public comment at least 30 days before making a determination on the waiver request. If the Secretary grants a waiver, the justification for the waiver would be published in the *Kansas Register*.

The Department of Transportation (KDOT) anticipates that the bill would likely increase costs for highway construction projects, building construction projects and material purchase contracts. However, the agency is unable to estimate the dollar amount of the cost increases because it does not possess data regarding the value of any foreign source materials that are purchased by the Department. The agency notes that it is likely that contractors are purchasing the least expensive material, some of which may be of foreign origin. KDOT also indicates that the bill could result in the loss of federal revenue to the State Highway Fund. The provision in the bill requiring state agencies to give preference to Kansas manufactured goods would violate Federal Highway Administration regulations. Any loss of revenues from federal sources would cause reductions, cancellations or delays of expenditures for Transportation Works for Kansas (T-WORKS) projects.

Currently, the Office of Procurement and Contracts (OPC) in the Department of Administration does not handle all state contracts for projects, including certain KDOT contracts related to construction and maintenance of the state highway system. However, the definition of "state agency" under the new Act, which would be administered by the Department of Administration, would include all state agencies. If the OPC were required to handle the procurement services of all state projects, the Department estimates that it would need $295,320 from the State General Fund in FY 2018, $281,320 from the State General Fund in FY 2019, and 4.00 new FTE positions each fiscal year. The positions would include three procurement officers and one administrative support employee. Of the total amount, $225,000 would be for salaries and wages expenditures for the new positions; $43,320 would be for additional office space; $8,000 would be for copier leases; $3,000 would be for communication expenses; and $2,000 would be for office supplies. The FY 2018 estimate includes one-time costs of $14,000 to set up workstations. Any fiscal effect associated with SB 176 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Colleen Becker, Department of Administration
Ben Cleeves, Transportation