

February 27, 2019

The Honorable Sean Tarwater, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 151-S
Topeka, Kansas 66612

Dear Representative Tarwater:

SUBJECT: Fiscal Note for HB 2262 by Representative Whipple

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2262 is respectfully submitted to your committee.

HB 2262 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 United 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 bill, 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 \$281,320 from the State General Fund in FY 2020 and 4.00 new FTE positions. 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. Any fiscal effect associated with HB 2262 is not reflected in *The FY 2020 Governor’s Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "L. L. Campbell", written in a cursive style.

Larry L. Campbell
Director of the Budget

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