

March 6, 2024

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 464 by Senator Faust Goudeau

In accordance with KSA 75-3715a, the following fiscal note concerning SB 464 is respectfully submitted to your committee.

SB 464 would create the Kansas Minority, Woman, Disadvantaged and Service-Disabled Veteran Small Business Enterprise Development Act. The bill would create the Kansas Certified Small Business Enterprise Development Program within the Department of Commerce. The Act would facilitate and increase participation by certified small business enterprises in providing an opportunity to participate in contracts for public works, goods, and services to state agencies and postsecondary educational institutions from the private sector. The bill would define a “certified small business enterprise” as an airport concession disadvantaged business enterprise, minority business enterprise, woman business enterprise, disadvantaged business enterprise or service-disabled veteran-owned business enterprise. The Office of Minority and Women Business Development, of the Department of Commerce, and the Office of Civil Rights, of the Department of Transportation, would certify small business enterprises.

The Assistant Director of the Office of Minority and Women Business Development would administer the Program and assist state agencies and postsecondary educational institutions to establish plans, goals and policies to include monitoring and enforcing compliance and investigating complaints. Each state agency would adopt a plan to ensure that certified small business enterprises are afforded the maximum opportunity to participate in contracts for public works and goods and services. The bill would allow a contract to be awarded to the next lowest bidder if the lowest bidder does not meet the established goals of the Act. The Department also would be required to submit an annual report to the Governor and the Legislature regarding the progress in implementing the Act, including those agencies and postsecondary educational institutions that are not in compliance with the Act. A city, county, and unified school district

could also adopt a Certified Small Business Enterprise Procurement Program by coordinating with the Assistant Director.

The Assistant Director would also be permitted to create an advisory committee and appoint members upon consultation with the Office of Civil Rights. The bill would also provide for civil monetary penalties of up to \$5,000 for each separate violation of the Act that would be deposited into the State General Fund. Repeated violations of the Act could disqualify a contractor from participating in State contracts and any aggrieved business entity could appeal an order in district court. The bill would also allow the Attorney General to bring action and recover reasonable attorney fees and investigation costs. The provisions of the Act would be severable.

Department of Commerce indicates enactment of SB 464 would increase its operating expenditures for administering the Program by \$91,000 from the State General Fund for 1.00 Program Manager FTE position and associated operating expenditures for equipment and printing.

The Department of Administration indicates enactment of SB 464 could lead to additional costs for state agencies because the agencies would no longer be using the current procurement criteria which is choosing the lowest bid. Instead, SB 464 would require the agencies to accept the next lowest bid and would allow all bids to be rejected and new bids obtained, if the lowest bidder did not meet goals established for a particular contract. If the Department's Office of Procurement and Contracts is required to monitor the compliance and performance of contractors then its expenditures would increase agency expenditures. However, the Department is unable to estimate the fiscal effect SB 464.

Board of Regents indicates enactment of SB 464 could increase operating expenditures because it would have to spend more administrative time on procurement activities. In addition, the Board could be required to approve more expensive contracts to adhere to the requirements of the bill. The agency is unable to estimate the fiscal effect.

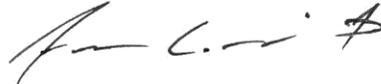
The Office of Judicial Administration indicates SB 464 could increase the number of cases filed in the district courts because the provisions allow for appeals under the Kansas Judicial Review Act. These provisions would increase time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. The enactment of the bill could increase the collection of docket fees, fines, and supervision fees that would be deposited into the State General Fund. The agency indicates that it is unable to estimate a precise fiscal effect.

The Office of the Attorney General cannot estimate the resources needed to enforce SB 464, but any additional expenditures would be financed with existing resources. The agency also indicates it is likely that the bill's provisions would be challenged in court. However, the agency is unable to estimate the fiscal effect if this would occur. The Department of Transportation states that it would provide the certifications required in the bill within existing resources. Any fiscal effect associated with SB 464 is not reflected in *The FY 2025 Governor's Budget Report*.

The Kansas Association of Counties and the League of Kansas Municipalities indicate SB 464 could increase revenues for counties and cities if businesses that are awarded contracts succeed

in providing goods and services to the state. The bill could also result in additional expenditures to the counties and cities if they choose to develop a Small Business Enterprise Development Program according to the bill's provisions. However, the Association and the League are unable to estimate a fiscal effect.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam C. Proffitt". The signature is fluid and cursive, with a large initial "A" and a stylized "P" at the end.

Adam C. Proffitt
Director of the Budget

cc: Trisha Morrow, Judiciary
Sherry Rentfro, Department of Commerce
Becky Pottebaum, Board of Regents
Wendi Stark, League of Kansas Municipalities
Jay Hall, Kansas Association of Counties
Tamara Emery, Department of Administration
Brendan Yorkey, Department of Transportation