

February 10, 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 91 by Senate Committee on Commerce

In accordance with KSA 75-3715a, the following fiscal note concerning SB 91 is respectfully submitted to your committee.

SB 91 would enact the Kansas Film and Digital Media Production Development Act. The purpose of the Act is 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 creates 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 fiscal year to 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 refundable income tax credit for qualified production and certain postproduction expenditures. 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 expenditures enhance 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 qualified for this income tax credit.

The Act caps the maximum 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 also allows 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 non-refundable tax credit.

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 on 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 sales tax exemption and income tax credit provisions of the bill would sunset prior to January 1, 2033.

The bill would transfer \$1.0 million from the State General Fund to the newly created Kansas Film and Digital Media Production Development Act Education Fund on July 1, 2023, and each July 1st through July 1, 2032. The Department of Commerce would be allowed to award grants for educational purposes or programs to develop and support the Kansas film and digital media industry. The purpose of the grants would be to develop, expand, and improve Kansas educational programs directly relevant to development and support of the film and digital media industry in this state. The grants would be available to any not-for-profit postsecondary educational institutions with a main campus or principal operations in Kansas, including public or private four-year universities or colleges, community colleges, technical colleges, and the Washburn Institute of Technology.

The bill would transfer \$1.0 million from the State General Fund to the newly created Kansas Film and Digital Media Production Development Act Workforce Training and Business Direct Investment Fund on July 1, 2023, and each July 1st through July 1, 2032. The Department of Commerce would be allowed to award grants or loans from the Kansas Film and Digital Media Production Development Act Workforce Training and Business Direct Investment Fund in connection with certified projects. The grants or loans would help develop the Kansas film and digital media industry by funding workforce training and by investing directly in Kansas companies engaged in or seeking to engage in a certified project.

The Department of Revenue and the Department of Commerce would both have the authority to write rules and regulations to implement the bill. 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 annual report would also detail the administration, accomplishments, and progress of the Kansas Film and Digital Media Production Development Act Education Fund and the Kansas Film and Digital Media Production Development Act Workforce Training and Business Direct Investment Fund.

The Department of Revenue estimates that SB 91 would decrease State General Fund revenues by \$12.0 million in FY 2024, and in each future fiscal year through FY 2033. 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. In addition, the bill authorizes two \$1.0 million transfers each year from the State General Fund for two separate grant programs to develop and grow the film, video, or digital media production industry in Kansas. 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.

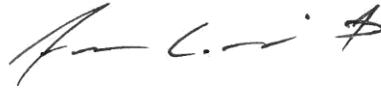
The Department of Revenue indicates that it would require a total \$148,851 from the State General Fund in FY 2024 to implement the bill and to modify the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, 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 Department of Commerce indicates that bill would require \$90,633 from the State General Fund in FY 2024 to implement this new program. The bill would require the Department hire 1.00 new FTE position to manage this new program.

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 fiscal effect associated with the \$10.0 million cap on the film, video, or digital media production income tax credit provisions in SB 91 are reflected in *The FY 2024 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,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

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