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Shawn Sullivan, Director of the Budget

Sam Brownback, Governor

April 10, 2017

The Honorable Jacob LaTurner, Chairperson
Senate Committee on Federal and State Affairs
Statehouse, Room 136-E
Topeka, Kansas 66612

Dear Senator LaTurner:

SUBJECT: Fiscal Note for SB 234 by Senate Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning SB 234 is respectfully submitted to your committee.

SB 234 would set a 36.0 percent per annum rate cap, inclusive of all fees, interest, and charges contained in the loan contract, including costs of ancillary products on consumer loans under the Uniform Consumer Credit Code for open-end products. The bill would set a 36.0 percent per annum rate cap for consumer loan transactions made under current law. In addition, the bill would amend current law to define consumer loans as those in which a lender, for a fee, finance charge, or other consideration does the following:

1. Accepts an instrument from the borrower as security for a loan;

2. Agrees to hold the instrument for a period of time prior to deposit or negotiation of the instrument;

3. Pays to the borrower, credits to the borrower's account or pays to another person on the borrower's behalf the amount of the instrument, less charges permitted; and

4. Issues a loan equal to or less than $500.

SB 234 would restrict loans to the number of months equal to the sum of the loan principal and all applicable charges, divided by the maximum allowable monthly payment. The bill specifies that a consumer may only have one loan outstanding at any time. Prior to making the loan, the bill would require that the lender disclose periodic payments, total repayment, total loan costs, notice of the borrower's right to revoke ACH payment authorization, and right to rescind.

The bill would provide a maximum monthly fee of or charge for any loan under KSA 16a-2-1404 of 5.0 percent of the original loan principal or $20, whichever is less. These fees would not be added to the original contracted loan for purposes of calculating interest. Loans made may be refinanced; however, any refinanced loan would have a maximum rate of 36.0 percent per annum and would not be subject to any monthly fee or charges. The total loan charges for any loan would not exceed 50.0 percent of the loan principal. The bill would permit a returned check of 5.0 percent of the original loan principal or $20, whichever is less, plus any amount passed from another financial institution.

Under the bill, the total required monthly payment of a loan would not exceed the greater of 5.0 percent of the borrower's verified gross monthly income or 6.0 percent of the borrower's verified net monthly income. No prepayment penalty would be allowed. If a loan is prepaid, all finance charges, including interest and fees, are pro rata refundable.

SB 234 would require loans to be precomputed and would require full amortization of balance to zero with all payments reducing principal. A lender may accelerate the loan balance if any payment is more than ten days delinquent, but could only collect prorated interest and fees earned to date. SB 234 would require the Office of the State Bank Commissioner (OSBC) to publish an aggregate report to the public of all the information provided by lenders. The required information is specified in the bill.

The OSBC estimates that an additional 1.00 FTE position would be needed to assist with compliance in both FY 2018 and FY 2019. For the additional position, $63,650 would be for salaries and wages and $9,400 would be for other operating expenditures. Additionally, the agency estimates an additional 0.50 FTE positon would be needed to oversee and publish the annual report required in the bill in both FY 2018 and FY 2019. For the 0.50 FTE positon, $32,200 would be for salaries and wages and $1,000 would be for other operating expenditures.

The OSBC states the bill would reduce the volume of payday and open-ended loan transactions by up to 70.0 percent resulting in a 70.0 percent reduction to the agency's fee funds based on the effect of similar legislation and the implementation of similar rate caps in other states. Any fiscal effect associated with SB 234 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

Shawn Sullivan,
Director of the Budget

cc: Jerel Wright, Credit Unions
Judi Stork, Banking