

May 22, 2017

The Honorable Caryn Tyson, Chairperson  
Senate Committee on Assessment and Taxation  
Statehouse, Room 123-E  
Topeka, Kansas 66612

Dear Senator Tyson:

**SUBJECT:** Fiscal Note for SB 222 by Senate Committee on Assessment and Taxation

In accordance with KSA 75-3715a, the following fiscal note concerning SB 222 is respectfully submitted to your committee.

SB 222 would prohibit the Secretary of Commerce from approving any applications for benefits under the Promoting Employment Across Kansas (PEAK) Program during FY 2018. The bill would also move up the sunset date from June 30, 2018, to June 30, 2017, that prohibits the Secretary of Commerce from approving PEAK benefits to retain existing businesses that are already located in Kansas. The bill would not impact PEAK agreements that were approved prior to the moratorium taking effect.

The Department of Revenue estimates that SB 222 has the potential to prevent a State General Fund revenue decrease of approximately \$5.5 million in FY 2018 and for the next four fiscal years, including \$5.1 million from PEAK relocation, location, and expansion agreements and \$400,000 from PEAK retention agreements. PEAK projects tend to have fewer employees and withholdings benefits in the first years of the project with increased employee levels and withholdings benefits in future years. The fiscal note uses averages to estimate the total fiscal effect; however, the fiscal effect has the potential to be lower in the first years and higher in the last years of a PEAK project.

To formulate these estimates, the Department of Revenue reviewed data on the PEAK Program that is managed by the Department of Commerce. In FY 2016, there were 243 active PEAK relocation, location, and expansion agreements accounting for a total withholding benefit amount of approximately \$28.5 million. That amounts to an average annual benefit of approximately \$117,000 per agreement. There were 44 new PEAK agreements that were approved in FY 2016. Under current law, the Department of Commerce expects the same, or a slightly reduced, number of PEAK agreements will be signed in FY 2018. If 44 new PEAK agreements are not signed in FY 2018, the bill has the potential to prevent a State General Fund

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revenue decrease of approximately \$5.1 million in FY 2018. Because the average PEAK benefit lasts approximately five years, the prevention of State General Fund revenue decreases would continue for the next four fiscal years. It is unknown how many businesses that would no longer relocate or start new operations in Kansas under the provisions of the bill.

The Department of Revenue indicates that the Department of Commerce allocates approximately \$2.0 million for PEAK retention agreements and it will take five years to fully phase out these benefits. Moving up the sunset date by one year for PEAK retention agreements, has the potential to prevent a State General Fund revenue decrease of approximately \$400,000 in FY 2018 and for the next four fiscal years. The Department of Revenue indicates the bill would require modifications to income tax withholding tables at a cost of \$600 from the State General Fund in FY 2018.

The Department of Commerce indicates that a December 2014 audit from the Legislative Division of Post Audit calculated that the PEAK Program has 57:1 return on investment and creates positive economic impact to the state of approximately \$287.0 million per year. The Department indicates that this positive impact would be delayed or eliminated in part under the provisions of the bill. In addition, the Department indicates that it receives approximately 64 applications for PEAK benefits each year that generate approximately \$48,000 from the \$750 application fee that would not be generated during the prohibition of PEAK benefits in FY 2018. Any fiscal effect associated with SB 222 is not reflected in *The FY 2018 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Shawn Sullivan", with a long horizontal line extending to the right.

Shawn Sullivan,  
Director of the Budget

cc: Bob North, Commerce  
Lynn Robinson, Department of Revenue