

Promoting Employment Across Kansas (PEAK)

Steve Kelly, Deputy Secretary

Kansas Department of Commerce

Members of the Committee,

I am providing testimony today to provide background on the genesis and development of the Kansas income tax withholding retention program known as Promoting Employment Across Kansas (PEAK). This program provides a mechanism for qualifying companies to benefit from the retention of state income tax withholding generated by their employees, as an incentive for the creation and retention of jobs in Kansas.

My career in economic development began over 25 years ago, for 22 of those years I have been part of the Kansas Department of Commerce. Over that time many things in economic development have changed; two prime examples being the rise of site location and incentive consultants as a factor in business location decisions, and the increase in sophistication of both economic development organizations and companies sourcing new locations. With this evolution in economic development, the mixture of economic development tools and resources has also changed. Where once tax credits were the predominant economic tool of state economic development, more and more we have seen a move to cash-based incentives as a response to company desires that incentives be monetized and front-end loaded.

One type of incentive that has become a staple for many states is based on company retention of employee state income tax. These programs vary state-to-state but the underlying premise is that the qualifying company is allowed to benefit from the state income tax withheld from employee salaries, either through direct retention of those monies, or a refund to the company of all or a portion of these monies remitted to the state. This program is a cash-based alternative to tax credits that is performance-based and inherently self-regulating. In addition, much of the information needed to monitor and evaluate a particular project is available through various reports and submission already provided to state and federal agencies.

Kansas entered into the withholding retention arena with passage of the PEAK program by the 2009 Kansas legislature. Surrounding states like Oklahoma and Missouri had previously enacted withholding-based incentives and in particular the passage of the Missouri Quality Jobs gave rise to concerns that Kansas was becoming competitively disadvantaged. Several individuals spearheaded the effort to first develop and then move the legislation forward, including; former Lt. Governor and Secretary of Commerce Gary Sherrer, Representative Marvin Kleeb of the Kansas Legislature and Vern Squier of the Overland Park , Kansas Economic Development Corporation.

The PEAK program as initially enacted provided an opportunity for a company in a qualifying NAICS to receive benefits based on number of jobs, tied to the attainment and maintenance of a company average wage, equal to or exceeding the county average. Benefits increase as the positive differential between company wage and county average wage increases. PEAK eligibility in the initial legislation was also limited to new jobs and business activities coming to Kansas from other locales. In subsequent years, the legislature has modified the program a number of times; expanding use to include certain qualifying expansion and retention projects and offering alternative wage qualifiers in addition to county average wage. One feature of the Kansas program that differs from most is the wage eligibility test for individual employees. The Kansas program requires, that though the company gains

eligibility by meeting a facility wide wage standard, employee income tax withholding can only be retained from those individual employees that meet or exceed the county wage standard. This provision differs from the approach of many states which allow state income tax withholding from all employees to be retained by the company regardless of individual wage level, once the company as a whole has qualified.

In the years since enactment, PEAK has grown in usage, until it is now the most powerful job creation tool we have. Ensuing legislation that allows certain expansion and retention projects to qualify, in combination with increased awareness of the programs and its capabilities, has led to this growth. In my view, PEAK is a particularly effective tool because it represents an approach that recognizes and addresses company needs, while also limiting state exposure. It is truly a “pay for performance” model-if jobs and payroll are not generated, neither is the company benefit and incentive.

Thank you for this opportunity to present information to the committee.