

Kansas Department of Commerce
Testimony on SB 347, APEX Attracting Powerful Economic Expansion
Deputy Secretary of Commerce Paul Hughes
House Commerce Committee
January 31, 1:30 p.m.
Room 346-S

The Kansas Department of Commerce requests that the Kansas Legislature move swiftly to create a new economic development tool, APEX – Attracting Powerful Economic Expansion-- to permit the State to compete for a significant business currently evaluating our state, and to enable us to pursue similar opportunities in the near future.

We're competing for what's known as a megaproject, which is an economic development opportunity where the company will be spending \$1 billion or more on their facility and equipment. Though we cannot give certain details due to confidentiality requirements set by the company, we can say that Kansas is a finalist for a megaproject that will bring \$4 billion in new private investment to our state, create 4,000 permanent jobs with an average wage of \$50,000 (which is above the county median average wage) and add nearly 6,000 more jobs during the construction phase. It is estimated that the total direct, indirect and induced economic impact of the current megaproject that the State is pursuing is over **\$2.5 billion annually**.

These very large economic development opportunities are becoming more common as manufacturing is brought back to the United States from overseas and supply chains are shortened. The global economy is changing rapidly, and Kansas must strengthen its toolkit to be more competitive in landing these megaprojects, which is the goal of APEX 2022.

Since 2017, Kansas has been considered for 11 megaprojects. **None have built in Kansas.**

Megaprojects present a huge opportunity to grow our state. APEX 2022 was developed in response to feedback that has been collected over the past five years regarding the competitiveness of the State of Kansas' toolkit in attracting megaprojects.

By way of significant capital investment, job creation, training budgets and infrastructure enhancements, these megaprojects represent a unique opportunity to bolster the workforce, establish new industrial sectors in the state and deliver a more diverse tax base (e.g.: housing, payroll, utilities and hospitality) across Kansas.

The megaproject now being pursued by the State involves a massive advanced manufacturing facility. As mentioned, this is a \$4 billion capital expenditure and the company is committing to the creation of 4,000 jobs with an average wage of \$50,000. The project also will create nearly 6,000 construction jobs during the 18-month span of construction. Suppliers relocating with this company are expected to hire thousands of additional workers.

In order to compete for this and other opportunities, APEX 2022 blends and modifies several successful concepts from existing incentive programs offered by the state. Specifically, the framework of Promoting Employment Across Kansas (PEAK), High Performance Incentive Program (HPIP) and Kansas Industrial Training (KIT) would be combined and modified to meet the unique needs of megaprojects and their suppliers. Megaprojects (“qualifying firms” in APEX 2022) and their “qualified suppliers” are both addressed in the bill. Suppliers are included, because we don’t want to lose them to surrounding states that may want to ride Kansas’ “coattails”.

Key Components: Qualifying Firms and Qualifying Suppliers

- In the bill, megaprojects are defined as “qualifying firms.”
 - Megaprojects must make a qualified business investment of at least \$1,000,000,000.
 - Megaprojects must be a for-profit business establishment, subject to state income, sales or property taxes, that is engaged in one or more of the following targeted industries: advanced manufacturing; aerospace; distribution, logistics and transportation; food and agriculture; professional and technical services; or is the national corporate headquarters of the for-profit business establishment.
 - Megaprojects must relocate assets that it already owns to Kansas from an out-of-state location or enter into an agreement to invest with the Department of Commerce.
- Qualifying Suppliers are defined as a supplier of components, sub-assemblies, chemicals or other process-related tangible goods with sales to the qualified firm of greater than \$10,000,000 annually, after the qualified firm’s facility has commenced operations. Qualifying suppliers must be selected by the qualified firm and approved by the Secretary of Commerce as eligible to receive benefits. The qualified firm may only select up to five suppliers.

The incentives for qualified firms and qualified suppliers are as follows:

Qualified Firms –

- Investment Tax Credit up to 15% of qualified business investment
- Up to 10% total Kansas payroll refund for up to 10 years

- Up to \$5 million annual reimbursement for 50% of employee training costs for up to 5 years
- 50% property tax exemption if the qualified firm is in a foreign trade zone, with local government consent
- 100% sales tax exemption for construction materials

The Qualified Supplier is eligible for:

- Investment Tax Credit up to 15%
- Retaining up to 65% of payroll withholding tax for 10 years
- Up to \$5 million annual reimbursement for employee training costs for up to 5 years
- 50% property tax exemption if the qualified supplier is in a foreign trade zone with local government consent
- 100% sales tax exemption for construction materials

Consistent with Secretary Toland’s longstanding position on claw backs, it is essential that there be meaningful safeguards to protect taxpayers in the event that any business that has received incentives fails to uphold its agreement with the state. Accordingly, the APEX bill has been drafted with the following accountability measures.

- APEX proposes performance-based incentives. Investment tax credits, payroll refunds and training rebates only come after the company has made the investment.
- The State will claw back all benefits received by a qualified firm or supplier if it does not meet the requirements set forth in the agreement with the State.
- All incentives issued to a qualified firm or supplier will be published on the Incentive Transparency Database located at kansascommerce.gov/transparency.
- The State will require the megaproject to purchase a bond if the business falls below investment grade credit rating. The bond will insure the completion of the facility.
- Annually in January, the Department of Commerce will report to the Legislature on the performance of all companies awarded incentives under the APEX program.
- The Department of Commerce will report to the Commerce Chairs on a quarterly basis the number of megaprojects currently being pursued by the State.
- Local governments must approve the property tax exemption for qualified firms and suppliers.

Lastly regarding the current bill (SB 347) and accountability, it does contain a sunset of June 30, 2023 that was added as an amendment last week. Sunset provisions are not something new with our incentive programs. We like the opportunity sunsets provide to re-evaluate the effectiveness of the tool. However, a one-year sunset is too short. A one year sunset sends the wrong message to the business community. Kansas needs to be in the game for megaprojects, especially during a

time period when the number of megaprojects seeking new locations is high. We must capitalize on this moment. We ask that the sunset be set for June 30, 2027.

Why These Incentives?

It is reasonable to ask, why aren't the State's current incentives good enough to win megaprojects? There are several reasons.

First, other states have already enacted legislation that is far more attractive than what Kansas currently offers. That has made it possible for decisions like Blue Oval (Ford) to land in Tennessee, Samsung to land in Texas, and Gulfstream to occur in Arizona.

Second, megaprojects are unique in that the amount of money being invested by company can far outweigh the company's state tax liability for the first decade of operation. In Kansas, this will make it difficult for the company to redeem more than 43% of the investment tax credits that we can offer through HPIP. Therefore, we are seeking an amendment to return the bill back to our original request, which was for a refundable 15% investment tax credit for the megaprojects and suppliers. We must do better if we want to compete. For example, Missouri, Arizona and Indiana provide refundable tax credits. **Additionally, without making the investment tax credit refundable it is a deal breaker for the current company we are recruiting.**

And third, in a changing economy, the business of modernizing state economic development tools is a project once begun and never done. We cannot rest on our laurels, content with the past two record-setting years, and think that our recent past performance is enough to compete in the future. It is not. We can't just keep up with our competitor states. We have to beat them in the race for new business investment and new jobs.

The Commerce team has thoroughly analyzed our current incentives, compared our incentives to what other states offer specifically to megaprojects and suppliers, and worked to maximize the return for Kansas taxpayers. For example, the decision to propose in the bill a 65% payroll withholding tax rebate for 10 years for a qualified supplier best satisfies those benchmarks. This rebate would allow Kansas to offer a similar dollar amount to a standard PEAK offer but would take longer to maximize. While the supplier would not receive the benefit as quickly, the total offer would be competitive, and the other benefits of APEX would offset the timing issue.

Also, the reduction from a standard 95% withholding rebate to a 65% rebate would help to cover some of the costs associated with attracting the megaproject. Furthermore, this rebate offers a higher benefit total amount than surrounding states' programs.

Lastly, it is important to note that the revenue generated from the qualified suppliers will be used to offset the education and training expenses as well as the total payroll refund offered to the megaproject.

Both the current megaproject that Kansas is pursuing, and this needed economic tool for future projects, have the potential to transform the state's economy for the better. It will provide good paying jobs that will help keep our talented young people in the state, generate billions in net

new revenue and make Kansas the place to be for megaprojects. There is a strong return on investment for the APEX program. For a hypothetical project that would invest \$1 billion and create 1,000 jobs over 10 years, for every \$1 of incentives, \$20.52 in new economic activity is generated. For every 1 job that is created, there is \$4.9 million in economic impact over 10 years.

Time is of the essence. I want to thank the Committee for the opportunity to testify and urge the Committee to move swiftly to enact the APEX bill that includes a **refundable investment tax credit and a sunset of June 30, 2027** into law.