

KDOR.02 - Collections: Hire 54 officers

- In the near-term, focus on areas where the auditors can complete audits most quickly (i.e., sales and use tax) and train all auditors in these areas.

Background and Findings

- There are currently 23 full-time employees and 14 vacancies.
- To allow time for the new hires to enter the system and receive training, A&M assumes audit vacancies will not be filled until the last quarter of FY 2016.
- The additional audits will not produce revenue until FY 2017.
- If auditors cannot be recruited, outsourcing must be considered.

Recommendation #1 - (dollars in 000's)

<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
\$9,600	\$9,800	\$9,800	\$9,900	\$10,000

Critical Steps to Implement

The critical steps necessary to complete the implementation of the Audit hiring recommendation include:

- Hire 14 new revenue agents
- Train the new agents
- Create a long term recruiting plan
- Set audit benchmarks goals

Recommendation #2 – Fill Collections Vacancies

The state should fill the 54 current vacancies in the Collections department, bringing the total number up to meet the staffing profile of 262 full-time employees. Due to attrition, retirement, and budget cuts, Collections staffing levels sank to an inefficient level. Filling these positions will allow Collections to quickly generate additional revenue and to work efficiently moving forward.

Background and Findings

The Collections department is focused and uses its resources effectively. However, it is well understaffed. The departments believe that it can fill about 20 of the

open vacancies in this fiscal year and the remaining vacancies in the next fiscal year.

- The average Collection Officer currently produces approximately \$1 million in collections annually.
- The collections rate is net of staff salaries.

Recommendation #2 - (dollars in 000's)

<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
\$48,000	\$50,200	\$52,900	\$55,500	\$58,300

Critical Steps to Implement

The critical steps necessary to complete the implementation of the Collections Hiring recommendation include:

- Hire 54 new or recently retired Collection Agents
- Train these agents
- Hire up to staffing profile

Recommendation #3 – Establish Discovery Team

The state should establish a cross-functional Discovery Team comprised of representatives from Business Intelligence, Customer Service, Audit, Collection, General Counsel and Policy Research. The Discovery Team will facilitate communication and collaboration between departments. These members should meet quarterly to develop and execute an integrated audit plan that efficiently utilizes all departments' resources in pursuit of increased revenue and a more efficient tax administration.

Specifically Kansas should:

- Launch a Discovery Team campaign, eliciting applicants or recommendations from each of the six departments. Team members should be clear communicators.
- Select one or two full-time employees from each department to comprise the Discovery Team.
- Train Discovery Team members.

KDOR.03 - Discovery

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- Select one or two full-time employees from each department to comprise the Discovery Team.
- Train Discovery Team members.

- Implement quarterly meetings for the Discovery Team.
- Set benchmark goals for the future of the Discovery Team as a whole and for contributions of each department.
- Set results-focused goals that focus on enhancing efficiencies.

Background and Findings

- A&M assumes Discovery will not result in collections until FY 2017.
- A&M found that little communication currently occurs between departments and that this lack of communication results in redundancies and inefficiencies throughout the process.
- In particular, Audit and Collections currently overlap on collections cases.
- Since the departments will be moving into separate buildings in the near future, coordination may become more difficult.

Recommendation #3 - (dollars in 000's)

<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
\$10,000	\$10,000	\$10,000	\$10,000	\$10,000

Critical Steps to Implement

The critical steps necessary to complete the implementation of the Discovery Team recommendation include:

- Establish a Discovery Team comprised of representatives from each of the six departments.
- Set results-focused goals.
- Establish a close loop audit process including a reporting on audit findings.

Recommendation #4 – Eliminate Appeals Backlog

The state should seek to eliminate the current backlog of cases in appeals. Eliminating the backlog will

rapidly generate additional revenue. This will decrease the number of cases in future years and help prevent future backlog. Specifically Kansas should:

- Implement a restructured evaluation and ranking process based on the potential revenue to be received and ease of resolution.
- Dedicate resources to the process.

Background and Findings

- There is a backlog of appeals case estimated at approximately \$24 million.
- Due to resource constraints, there has not been a focused effort to resolve these cases.
- A&M conservatively assumes \$10 million can be collected in FY16.

Critical Steps to Implement

The critical steps necessary to complete the implementation of the appeals backlog elimination recommendation include:

- Develop a restructured evaluation and ranking process.
- Dedicate resources to resolve these cases.

KDOR.04 - Appeals

- Implement quarterly meetings for the Discovery Team.
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KDOR.01 - Audit: Fill 14 auditor vacancies

State and Local Business Taxes by Type, FY2014 (\$ billions)

State	Property tax	Sales tax	Excise tax	Corp Income tax and individual income tax on business income	Unemployment insurance tax	License and other taxes*	Total
Kansas	250%	2	0	30%	0	0	590%
Arkansas	110%	150%	0	70%	40%	0	450%
Colorado	490%	3	1	130%	0	0	1130%
Iowa	290%	2	0	90%	0	0	680%
Missouri	330%	2	0	100%	0	0	870%
Nebraska	190%	1	0	70%	0	0	420%

A&M's approach to DOR focused on enhancement of current capabilities, cost reduction, and the creation of new capabilities to enhance DOR's ability to function more effectively.

- Short-term opportunities – There are three recommendations made by A&M designed to increase revenue starting in the current budget cycle. These recommendations focus on resuming hiring and thus resolving the backlog of outstanding return reviews and cases.
- Medium-term opportunities – The creation of an interdisciplinary Discovery Team will allow the DOR to increase collaboration and communication, thereby enhancing DOR efficiency for the coming years.

Recommendation #1 – Fill Audit Vacancies

The state should fill the 14 current vacancies in the Audit department, bringing the total number up to meet the staffing profile of 37 full-time employees. Filling these positions would allow Audit to process more cases and thus generate additional revenue while enabling Audit to work efficiently moving forward. Specifically Kansas should:

- Hire and train 14 new or recently retired revenue agents.
- Create a central audit plan with industry or issue focus.
- Set benchmark goals.

RECOMMENDATIONS

Target Savings and Revenue Estimate

(All values in 2015 dollars, in 000s)

Rec #	Recommendation Name	FY16	FY17	FY18	FY19	FY20	FY21	Total
1	Audit: Fill 14 Auditor Vacancies	\$0	\$9,600	\$9,800	\$9,800	\$9,900	\$10,000	\$49,100
2	Collections: Hire 54 Officers	\$7,800	\$48,000	\$50,200	\$52,900	\$55,500	\$58,300	\$272,700
3	Discovery	\$-	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$50,000
4	Appeals	\$10,000	\$-	\$-	\$-	\$-	\$-	\$10,000
Division of Revenue total			\$67,600	\$70,000	\$72,700	\$75,400	\$78,300	\$364,000

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COM.04 - Eliminate Community Service Tax
Credit Program

Key Assumptions

- The fiscal impact to the state would be a savings of approximately \$5 million to \$6 million in FY17 and FY18, but companies would be able to use the carry forward starting in tax year 2018.
- The above cost saving estimates are based on the 2009 and 2010 tax incentive reduction that resulted in the following cost saving actions:
 - » Any reduction in the investment credit claimed in tax years 2009 and 2010 may be carried forward and claimed in tax year 2011, for any taxpayer that has received a letter from the Department of Commerce that is dated prior to June 1, 2009 certifying the taxpayer as qualifying under the High Performance Incentive Program. The carry forward period for the amount of credit reduced will be extended for two years.
 - » If however the letter certifying the taxpayer is dated on or after June 1, 2009 and the investment becomes operational during tax year 2009 or tax year 2010, credits claimed in tax year 2009 or tax year 2010 will be reduced, and the reduction cannot be carried forward. The carry forward period is not extended in this situation. In order to use any remaining carry forwards, a taxpayer must be certified for the majority of the tax year.
- To address the changes to the HPIP training requirement, K.S.A. 71-50,131, and amendments there to would need to be amended. It is suggested that the statutory language that “and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132,” be removed.

Critical Steps to Implement

- Any changes to the major tax incentives would require changes to existing Kansas statutes
- Communication and coordination with the Department of Revenue and existing HPIP qualifying taxpayers
- Revise marketing and promotional material

Recommendation #4 – Eliminate Community Service Tax Credit Program

Kansas Department of Commerce oversees the Kansas Community Service Program, as authorized under K.S.A. 79-32,194, 197 et seq. and Schedule K-60, allows business firms which contribute to an approved community service organization engaged in providing community service to potentially be eligible to receive a tax credit of at least 50 percent of the total contribution made. The Community Service Program (CSP) allows for tax credits against the state income tax, premium tax, and privilege tax for businesses that make contributions toward state-approved community service capital projects.

To receive the credit, awarded organizations must engage in activities that meet demonstrated needs in the state in the areas of community service, health care, and/or crime prevention. Contributions toward approved projects are eligible for up to a 50 percent credit. Contributions toward approved projects in designated rural areas are eligible for up to a 70 percent credit. The credit represents a tax credit donation and must be no less than \$250. It also represents a tax credit made by business firms or individuals subject to Kansas taxes.

The eligible uses of the existing Kansas Community Service Tax Program include:

- **Community Service:** Meet demonstrated community needs—which are designed to achieve improved educational and social services for Kansas’s children and their families. These activities include but are not limited to: social and human services that address causes of poverty through programs and services that assist low-income persons in areas of employment, food, housing, emergency assistance, and health care.
- **Health Care Services:** Health care services provided by local health department, city, and county nursing homes, and other residential institutions. Non-profit or community service organizations that offer immunizations, prenatal care, and home health care services, which may enable the postponement of entry into a nursing home.
- **Community Services:** Assistance for the disabled, mental health services, indigent health care, physician or healthcare worker recruitment, health

education, medical services, and equipment.

- Crime Prevention: Any non-governmental activity that aids in the prevention of crime.

The department indicated that recent award recipients including: Hospitals, Boy Scouts of America, Historic Theatres, Museums, Public Libraries, Humane Societies, Child Advocacy Centers, Community Colleges, Foundations, have recently utilized the CSP program.

The department reported \$4.13 million is annually allocated for the CSP program from the Tax Credits. Records from the Department of Revenue for tax year 2012 indicated 899 tax credit filers submitted tax credits of \$4,006,556.

Our findings include:

- Commerce received approximately \$10.7 million in requests for CSP tax credits during the last fiscal year and awarded 22 applications out of 50 submitted.
- The length of the term to use tax credits is 18 months—July 1st through December 31st of the next year (Example-July 1, 2015 through Dec 31, 2016).
- The average request is \$250,000.
- The department indicated that to stretch this allocation, an average reduction of award of approximately 20 percent to 30 percent is applied. Commerce indicated the reduction helped them expand the awards to more community organizations. This practice has been in place for approximately three years.

In 2015, the department indicated they had eight community organizations on a waiting list requesting any unused tax credits, for a cumulative total of approximately \$700,000 or greater to be reallocated to them to use by December 31, 2015.

Based on analysis of credit programs in other states, not all states offer a similar tax credit program. Yet, the department identified some states to have programs with a type of incentive that has similarities to Kansas' program. State programs that were highlighted include:

- Connecticut: 60 percent tax credits generally, but 100 percent for certain energy conservation

projects, limiting businesses to \$150,000 in credits annually, and limiting nonprofit recipients to receiving \$150,000 in program support through the credits.

- Delaware: Tax credits for business or individual taxpayer donors to nonprofits delivering community services, crime prevention, economic development, education, and affordable housing services in low or moderate income communities, capping the benefit to any taxpayer at \$100,000, and with a statewide cap of \$500,000.
- Indiana: Tax credits for business and individual taxpayers, capped statewide at \$2.5 million, for donations to approved nonprofit projects in affordable housing, counseling, child care, educational assistance, emergency assistance, job training, medical care, recreational facilities, downtown rehabilitation, and neighborhood commercial revitalization benefiting low and moderate income communities.
- Missouri: 50 percent or 70 percent tax credits, the latter for projects in designated low-income urban or rural areas, for business donations to approved Neighborhood Assistance Projects—\$10 million cap for 50 percent credits, \$6 million for 70 percent credits.

Although the program has provided a benefit to state nonprofits, many of the program efforts funded with the annual allocation could be funded with other potential federal grant funds and private foundations. The efficiency recommendation suggests the state seek external funding for the program or eliminate the annual allocation process. Staffing resources dedicated to the program for both the Departments of Commerce and Revenue could be redirected to internal review and audit functions of each department.

A&M also reviewed the other primary tax incentive programs including PEAK, JDF, and the HPIP Tax Incentive programs. These three incentive programs are mission critical to the state to assist and incent development, job growth, and capital investment. The primary direct beneficiaries of these programs are those businesses that use these programs to grow and expand in Kansas. Indirect beneficiaries are their employees, their families, and the communities in which they reside, and ultimately the state whose economy is strengthened when companies are successful and

growing.

Any elimination or scaling back of these programs would have a negative impact on the state's ability to grow business and compete with other states and countries vying with Kansas for new and existing business opportunities.

Recommendation #4 - (dollars in 000's)

<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
\$2,000	\$4,000	\$4,000	\$4,000	\$4,000

Key Assumptions

- Elimination of the Community Service Program Tax Credits could result in an additional \$4.0 million in taxable income from the almost 900 Kansas taxpayers who filed for the exemption in state tax year 2012.
- Kansas would realize a first year impact after January 1, 2017 due based upon implementation at the beginning of a state tax year.
- The staff resource savings in the Department of Commerce and Department of Revenue for the monitoring efforts are assumed to be redirected to other program activities within each department's tax incentive program functions.
- Staff efficiency savings from Department of Commerce personnel would not be a savings to the State General Fund but from the Economic Development Initiative Fund which is funded from the Kansas Lottery Fund appropriation.

Critical Steps to Implement

- Create a working committee to determine if the Community Service Tax Credit program allocations could be funded with private resources and foundations instead of directing the business tax contribution.
- If the decision is made to eliminate the Community Service Tax Credit Program, legislation would be needed to amend the K.S.A. 79-32,194 and 197 et seq. and Schedule K-60, which allows business firms contributing to an approved community service organization to participate.

gram subsidy for Athletic Commission fee for service operation

As noted in the introduction of this Chapter, the department oversees the operations of the Kansas Athletic Commission. This includes inspection of the health and safety of the contestants and the revenue facilities. The programs cover authorized control and direction for professional boxing, kickboxing, mixed martial arts, and wrestling, while encouraging the promotion of such sporting events in the State of Kansas. The Commission continues to facilitate the health and safety of contestants and fair and competitive bouts, in addition to protecting the public.

Department of Commerce - Athletic Commission Comparison

	<u>FY 2013</u>	<u>FY 2014</u>	<u>FY 2015</u>
	<u>Actuals</u>	<u>Actuals</u>	<u>Actuals</u>
Revenues	\$ 106,691	\$ 100,738	\$ 78,682
Expenses	\$ 142,777	\$ 32,681	\$ 104,218
Difference	\$ (36,086)	\$ 68,057	\$ (25,536)

Source: Department of Commerce Fiscal Office - November 2015

We found over the past several years, the revenues from 5 percent of the gross receipts fee from gate fees, event application, and promoter license/fees were not fully covering the costs of the department's oversight. While not significant today, if boxing, wrestling, and related Athletic Commission events are expanded across Kansas, the state should not be subsidizing the cost of the events from its state coffers.

It is recommended that the licenses and gross receipt fees should fully recover the costs for the Athletic Commission to regulate the commissioned events. The state assesses a 5 percent athletic fee upon the gross receipts calculated for Boxing, Mixed Martial Arts, Kickboxing, and Wrestling events. K.A.R. 128-3-1 defines gross receipts "as the total amount of all ticket sales, including complimentary tickets and passes, after sales tax is deducted."

In addition to various professional license and application fees, the event promoters shall obtain a surety bond or irrevocable letter of credit in the amount of \$10,000 to guarantee payment of all fees and taxes due the Athletic Commission. The Commission may

Recommendation 5 – Ensure no pro-

COM.03 - Revise Primary Tax Incentive Programs

Note: The Private Activity Bond projections are net of the existing \$3,500 in PAB application fees and \$12,225 in Business Expansion Qualified Small Issue bond financing issuance fees.

- Annual administrative fee not exceeding one percent of the annual grant amount for the existing operating grants where administrative costs are not assessed or \$155,050. This amount is one percent of the above two grants Kan-Grow Engineering Fund, \$10,500,000 and State Affordability Airfare Fund, \$5,005,000 where Commerce is not recovering any administrative overhead or programming costs for the two pass through grants.
- Any monies generated should be credited back to the department.

Critical Steps to Implement

- Revise appropriate statutes and KAR's to allow the Department of Commerce to assess the administrative fee on any STAR Bond and Private Activity Bond financings
- Revise appropriate statutes and KAR's to allow the Department of Commerce to assess the tax incentive administrative fee on any approved tax incentive projects
- Communicate administrative fee provisions to the local governments issuing the STAR Bond or PAB financings
- Create an application process for the tax incentive programs to recover an administrative application fee
- Clarify the existing contract language related to administrative costs for the Affordability Airfund Grant with Sedgwick County
- Clarify either the budget appropriation bill and/or statute allowing the Secretary of Commerce to assess the administration fee
- Communication to the grantee agencies of the administrative fee offset

Recommendation #3 – Revise Primary Tax Incentive Program Caps

As shown in the accompanying tables, the December 2014 Legislative Post Audit Report analyzed whether the major Kansas economic development programs have been successful. The report highlights the major economic programs that did create significant returns on investment for Kansas, with regard to business activities and of the associated state and local tax revenue generations.⁸

The December 2014 Legislative Post Audit also reported the existing economic development programs generate a return on investment of \$56.20 for each dollar HPIP dollar awarded, and \$57 of economic activity generated by every dollar of foregone revenue through PEAK.

Program	Incentives Contributed	Measures of Success			
		State Tax Net Present Value	Local Tax Net Present Value	Total Tax Net Present Value	Return on Investment (b)
IMPACT	\$12.2	\$287.4	\$71.9	\$359.3	\$27.2
JCF	\$2.6	\$14.2	\$3.6	\$17.7	\$6.3
PEAK	\$29.4	\$102.2	\$25.6	\$127.7	\$4.4
KIT-KIR	\$0.4	\$1.1	\$0.3	\$1.4	\$3.9
HPIP	\$49.4	\$135.9	\$34.0	\$169.9	\$3.4
KFCIF	\$6.6	\$7.4	\$1.8	\$9.2	\$1.4
Local	\$71.6	\$83.6	\$20.0	\$104.6	\$1.6

(a) The values above are based on 19 projects from our full sample of 42 projects. The values reflect the midpoint of our estimates. The high and low estimates are 41-12% of the midpoint.
 (b) Values are per \$1 of investment.
 Source: LPA analysis of unaudited Kansas Department of Commerce and Kansas Department of Revenue economic development data.

High Performance Incentive Program⁹

The High Performance Incentive Program (HPIP) provides tax incentives to employers that pay above-average wages and have a strong commitment to skills development for their workers. This program recognizes the need for Kansas companies to remain competitive, and encourages capital investment in facilities, technology, and continued employee training and education. A substantial investment tax credit for new capital investment in Kansas and a related sales tax exemption are the primary benefits of this program.

⁸ 2014 Legislative Post Audit Report Highlights – Economic Development: Determining Which Economic Development Tools are Most Important and Effective in Promoting Job Creation and Economic Growth in Kansas, Part 3

⁹ Kansas Department of Commerce, Testimony to the Special Committee on Taxation, November 6, 2015

HPIP offers employers four potential benefits:

- A 10 percent income tax credit for eligible capital investment in a company's facility with a carry-forward that can be used in any of the next 16 years in which the qualified facility re-qualifies for HPIP.
- A sales tax exemption to use in conjunction with the company's eligible capital investment at its qualified facility.
- A training tax credit of up to \$50,000.
- Priority consideration for access to other business assistance programs.

Eligibility criteria for HPIP include:

- The capital investment must exceed \$1 million in Douglas, Johnson, Sedgwick, Shawnee, or Wyandotte counties, and \$50,000 in all other counties.
- Businesses must meet certain wage standards that depend upon their NAICS code.

The Department of Commerce certifies projects as eligible for HPIP with the Department of Revenue being responsible for oversight of the businesses claiming the tax credit. The Department processed 303 applications in FY13, 299 in FY14, and 285 in FY15. As of December 31, 2015, there were currently 311 active projects totaling approximately \$3.1 billion in new anticipated capital investment, which may potentially qualify for income tax credits and sales tax exemptions.

Job Creation Fund¹⁰

The Job Creation Fund (JCF) helps attract new companies to Kansas. Payments to companies from the JCF are typically made over three years as the companies meet certain benchmarks, such as creating jobs, making capital investments, equipment purchases, or facilities improvements.

Eligible projects include:

- Major expansion of an existing Kansas commercial enterprise

¹⁰ Kansas Department of Commerce, Testimony to the Special Committee on Taxation, November 6, 2015

- Potential location in Kansas of the operations of a major employer
- Award of a significant federal or private sector grant that has a financial matching requirement
- Potential departure from Kansas or the substantial reduction of the operations of a major Kansas employer
- Training or retraining activities for employees in Kansas companies
- Potential closure or substantial reduction of the operations of a major state or federal institution
- Projects in counties with at least a 10 percent population decline during the period from 2000 to 2010
- Other unique economic development opportunities

Economic Benefits¹¹

	FY2013	FY2014	FY2015	Three Year Total
Leads	436	416	370	1,222
Successes	201	164	174	539
New Jobs	12,063	8,239	8,150	28,452
Retained Jobs	8,026	4,789	4,219	17,034
Payroll (in millions)	\$1,049	\$697	\$770	\$2,516
Capital Investment (in billions)	\$1.76	\$1.01	\$1.35	\$4.12

Source: Department of Commerce Testimony to the Special Committee on Taxation
November 6, 2015

Commerce reported to the Kansas Legislature in September 2015 that existing incentive programs are the most effective tool to support job growth and investment in the state. During the past three fiscal years, Commerce indicated it has worked with more than 500 successful projects, which had 28,452 new employment opportunities resulting in direct payroll increase of \$2.5 billion and \$4.12 billion in capital investment.

¹¹ Kansas Department of Commerce, Testimony to the Special Committee on Taxation, November 6, 2015

Fiscal Year	Number of Agreements	Annual Payroll	New State Income tax (based on three percent rate)
2015	1	\$ 2,215,200	\$ 66,456
2016	7	20,007,635	600,229
2017	28	89,618,640	2,688,559
2018	45	242,545,895	7,276,377
2019	51	230,586,435	6,917,593
2020	47	342,038,172	10,261,145
2021	23	183,202,674	5,496,080
2022	19	321,130,964	9,633,929
2023	6	149,540,217	4,486,207
2024	4	138,180,881	4,145,426
2025	1	14,158,394	424,752
Total	232	\$ 1,733,225,107	\$ 51,996,753

Source: Department of Commerce Testimony to the Special Committee on Taxation - November 6, 2015

LPA's performance audit findings were consistent with the results of another independent study of the PEAK program, conducted by the Docking Institute of Public Affairs at Fort Hays State University, which concluded that PEAK has had a \$7.5 billion economic impact on the state.¹²

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Source: Department of Commerce Testimony to the Special Committee on Taxation - November 6, 2015

Tax Benefits

Commerce testified in November 2015 to the Special Committee on Taxation "as businesses exit the program, these new jobs will begin to contribute income taxes to state revenues for the first time. Based upon current projects and estimated payroll, 232 PEAK agreements will end and bring \$52 million in new annual income tax revenue to the state by the year 2025."¹³

¹² Kansas Department of Commerce, Testimony to the Special Committee on Taxation, November 6, 2015

¹³ Kansas Department of Commerce, Testimony to the Special Committee on Taxation, November 6, 2015

Promoting Employment across Kansas (PEAK)

PEAK was created by 2009 Legislature with the Secretary of Commerce having the discretion to approve applications of qualified companies and determine the benefit period. Qualifying PEAK companies may retain 95 percent of the payroll withholding tax of PEAK eligible employees/jobs that pay at or above the county median wage. The Department of Commerce can approve benefits for up to 10 years.

We also compared the state's primary tax programs with surrounding states and found most other surrounding states had similar tax incentive programs to Kansas.

Commerce indicated that the HPIP, Promoting Employment Across Kansas (PEAK), and Jobs Creation Fund (JCF) incentive programs were deemed to be mission critical, to assist and incent development, job growth, and capital investment. The primary direct beneficiaries of these programs are recipient businesses that use these programs to grow and expand in Kansas. Indirect beneficiaries are their employees, their families, the communities in which they reside; and ultimately the state whose economy is strengthened when companies are successful and growing.

The department stated that any elimination or scaling back of these programs will have a negative impact on the state's ability to grow business and to compete with other states and countries that are vying with Kansas for new and existing business opportunities. As discussed previously, we recommend the department needs to not only quantify the cost of the investment compared to actual incentive payment, but the offset should also be considering the direct, indirect and induced impact of all tax incentives and reporting the full economic contribution to the state.

When assessing the fiscal impact to the state's budget we found:

- The first annual impact will be in FY17 (in tax year 2016) with the HPIP tax credits totaling \$25 million.
- Annual revenue increases in future years from \$15 million to \$20 million in HPIP tax credits are claimed each year as earned in previous tax years.
- HPIP is an entitlement program. If the recipient company reaches minimum qualifications, they will be awarded the tax credit. Legislation will be

Peer Analysis of Tax Incentives (2013 Data)

	Arkansas	Colorado	Iowa	Kansas	Missouri	Nebraska	Oklahoma
Job Creation Tax Credits	X	X	X	X	X	X	X
Job Training Tax Credits	X	X	X	X	X		X
Agriculture/Rural Investment Tax Credits	X	X	X	X	X	X	X
Angel Investment/Small Business/Venture Capital Tax Credits	X		X	X	X	X	X
Research & Development Investment Tax Credit	X	X	X	X		X	
Quality of Life Investment Tax Credits	X	X	X	X	X		X
General Investment Tax Credits	X	X	X	X	X	X	X
Film Investment Tax Credits				X		X	
Tourism Investment Tax Credits	X		X			X	
Closing Fund	X	X		X			X

Source: 2013 State of Nebraska Legislative Audit Office Audit Report, Comparison of Tax Incentive Report

required to limit the amount of tax credits or allow discretion for the Secretary of Commerce to determine if projects receive the tax credit.

- The State Budget Office reported between \$450 million and \$550 million in outstanding HPIP credits have been approved, but not yet claimed. Budget officials indicated that a large portion will never be claimed, but companies tend to list these credits as assets, which makes them appear more profitable.
- Any changes to HPIP tax credit program for tax year 2016 will have strong opposition from industries and large employers in the state.
- The state is committed to approximately \$48 million in FY15, FY16, and FY17 before PEAK benefits start to expire.
- PEAK program benefits are at the discretion of the Secretary of Commerce and are not an entitlement program with \$24 million available for approval in FY16, and \$30 million in FY17.

In discussions with the department and the State Budget Office, we identified that the 2009 Legislature enacted a 10 percent reduction to most tax credits for tax years 2009 and 2010 including the HPIP tax credit. Companies were allowed to claim 90 percent of the credits. The 10 percent reduction or “haircut” was not allowed to be carried forward on newly earned tax credits.

We recommend that the state follow the 2009 legislation initiative and enact a 10 percent reduction to the existing tax credits for FY 2017 (2016 tax year) and FY 2018 (2017 tax year). The fiscal impact to the state would be a savings of approximately \$5 million to \$6 million in FY17 and FY18, but companies would be able to use the carry forward starting in tax year 2018.

Secondly, due to the statutory requirement that companies seeking HPIP benefits must participate in a training program, many KIT/KIR users access the program solely as a path to HPIP benefits. This puts pressure on KIT/KIR that otherwise wouldn’t exist. Commerce reported they completed 108 projects in 2015 with approximately 85 percent to 90 percent of KIT/KIR companies also accessing HPIP.

The department indicated that there are a “relatively large number of companies who access HPIP using KIT/KIR which don’t really need the training.” Most project awards are relatively small (e.g., under \$20,000). Potential changes to disconnect the training requirement for HPIP should be further reviewed. Further analysis is needed to determine the fiscal and operational efficiency impacts; however, we recommend the department continue the review and potential program modifications.

Recommendation #3 - (dollars in 000's)

<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>	<u>FY21</u>
\$5,000	\$5,000	\$0	\$0	\$0

Key Assumptions

- The fiscal impact to the state would be a savings of approximately \$5 million to \$6 million in FY17 and FY18, but companies would be able to use the carry forward starting in tax year 2018.
- The above cost saving estimates are based on the 2009 and 2010 tax incentive reduction that resulted in the following cost saving actions:
 - » Any reduction in the investment credit claimed in tax years 2009 and 2010 may be carried forward and claimed in tax year 2011, for any taxpayer that has received a letter from the Department of Commerce that is dated prior to June 1, 2009 certifying the taxpayer as qualifying under the High Performance Incentive Program. The carry forward period for the amount of credit reduced will be extended for two years.
 - » If however the letter certifying the taxpayer is dated on or after June 1, 2009 and the investment becomes operational during tax year 2009 or tax year 2010, credits claimed in tax year 2009 or tax year 2010 will be reduced, and the reduction cannot be carried forward. The carry forward period is not extended in this situation. In order to use any remaining carry forwards, a taxpayer must be certified for the majority of the tax year.
- To address the changes to the HPIP training requirement, K.S.A. 71-50,131, and amendments there to would need to be amended. It is suggested that the statutory language that “and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132,” be removed.

Critical Steps to Implement

- Any changes to the major tax incentives would require changes to existing Kansas statutes
- Communication and coordination with the Department of Revenue and existing HPIP qualifying taxpayers
- Revise marketing and promotional material

Recommendation #4 – Eliminate Community Service Tax Credit Program

Kansas Department of Commerce oversees the Kansas Community Service Program, as authorized under K.S.A. 79-32,194, 197 et seq. and Schedule K-60, allows business firms which contribute to an approved community service organization engaged in providing community service to potentially be eligible to receive a tax credit of at least 50 percent of the total contribution made. The Community Service Program (CSP) allows for tax credits against the state income tax, premium tax, and privilege tax for businesses that make contributions toward state-approved community service capital projects.

To receive the credit, awarded organizations must engage in activities that meet demonstrated needs in the state in the areas of community service, health care, and/or crime prevention. Contributions toward approved projects are eligible for up to a 50 percent credit. Contributions toward approved projects in designated rural areas are eligible for up to a 70 percent credit. The credit represents a tax credit donation and must be no less than \$250. It also represents a tax credit made by business firms or individuals subject to Kansas taxes.

The eligible uses of the existing Kansas Community Service Tax Program include:

- **Community Service:** Meet demonstrated community needs—which are designed to achieve improved educational and social services for Kansas’s children and their families. These activities include but are not limited to: social and human services that address causes of poverty through programs and services that assist low-income persons in areas of employment, food, housing, emergency assistance, and health care.
- **Health Care Services:** Health care services provided by local health department, city, and county nursing homes, and other residential institutions. Non-profit or community service organizations that offer immunizations, prenatal care, and home health care services, which may enable the postponement of entry into a nursing home.
- **Community Services:** Assistance for the disabled, mental health services, indigent health care, physician or healthcare worker recruitment, health

Senate Budget Committee	Action Type	Unique Identifier	Recommendation Name	Recommendation Description	Total Savings and Revenue Estimate (\$000s)							Percent of the Total
					FY 2016	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	Total	
Senate Tax	Immediate Action	KDOH.02	Collections: Hire 54 officers	Hire collection agents to fill current vacancies. The average collection agent currently produces about \$1M in collections annually.	7,800	48,000	50,200	52,900	55,500	58,300	272,700	13.4%
		KDOH.03	Discovery	Coordinate new audits with Collections, General Counsel and Policy to have a more effective centralized audit plan that would be defensible through appeals and litigation.	-	10,000	10,000	10,000	10,000	10,000	50,000	2.5%
		KDOH.04	Appeals	Reduce the current backlog of appeal cases to quickly generate additional revenue. There are 292 cases with about \$95M in dispute.	10,000	-	-	-	-	-	10,000	0.5%
	Total Immediate Action				17,800	58,000	60,200	62,900	65,500	68,300	332,700	16.3%
	Legislative Action	KDOH.01	Audit: Fill 14 auditor vacancies	Re-hire retired auditors in order to fill current audit department vacancies. The average auditor currently produces about \$934k in collections annually.	-	9,600	9,800	9,800	9,900	10,000	49,100	2.4%
		COM.04	Eliminate Community Service Tax Credit Program	Eliminate Community Service Tax Credit Program	-	2,000	4,000	4,000	4,000	4,000	18,000	0.9%
		COM.03	Revise Primary Tax Incentive Programs	Revise Primary Tax Incentive Programs	-	5,000	5,000	-	-	-	10,000	0.5%
	Total Legislative Action				-	16,600	18,800	13,800	13,900	14,000	77,100	3.8%
Total Senate Tax				17,800	74,600	79,000	76,700	79,400	82,300	409,800	20.1%	