

March 21, 2023

The Honorable Sean Tarwater, Chairperson  
House Committee on Commerce, Labor and Economic Development  
300 SW 10th Avenue, Room 346-S  
Topeka, Kansas 66612

Dear Representative Tarwater:

**SUBJECT:** Fiscal Note for HB 2334 by House Committee on Commerce, Labor and Economic Development

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2334 is respectfully submitted to your committee.

Under current law, Secretary of Commerce is allowed to enter into an Attracting Powerful Economic Expansion (APEX) agreement with one qualified firm in calendar year 2022 and one qualified firm in calendar year 2023 with each approved project requiring the corporate income tax rate to be reduced by 0.5 percent. HB 2334 would allow the Secretary of Commerce to enter into an APEX agreement with one qualified firm in calendar year 2024 and prohibit the Secretary from entering into an agreement with any qualified supplier after May 1, 2025. With the approval of the third APEX project, there would not be any further reduction to the corporate income tax rate.

The bill clarifies that a qualified firm or qualified supplier receiving APEX incentives for a project would not be eligible for participation in any other economic development program or fund administered by the Secretary of Commerce for the approved APEX project, but the qualified firm or qualified supplier could participate in these programs for other projects. The bill clarifies the supplier tax credit would be based on the amount of investment in each taxable year within the two successive calendar year period. The bill would increase the tax credit amount for a qualified supplier from 5.0 percent of the qualified investment to 10.0 percent of the qualified investment up to a maximum tax credit of \$10.0 million beginning in tax year 2023. The bill would allow the supplier tax credits to be apportioned over fewer than ten years and the bill specifies when the first year of the apportioned tax credit would be claimed by the qualified supplier.

The bill would increase the maximum reimbursement for training and education expenses for the qualified supplier from \$250,000 to \$500,000 per year. The bill would allow the qualified supplier to be eligible for reimbursement for employee relocation incentives and expenses to incentivize employees who are not Kansas residents to relocate their primary residence to this state

and become Kansas residents. The employee relocation incentive would be capped at \$250,000 per qualified supplier each year. The bill would become effective upon publication in the *Kansas Register*.

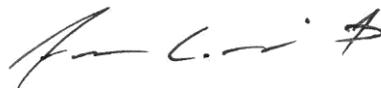
HB 2334 has the potential to reduce State General Fund revenues in FY 2024 and in future fiscal years, while increasing capital investment, creating high paying jobs, and establishing new and ancillary industry development in Kansas. However, without knowledge of a specific incentive agreement, a precise fiscal effect of HB 2334, including ancillary benefits, is not possible to formulate. The bill would allow the Secretary of Commerce discretion, within the parameters of this legislation and the original APEX legislation passed in 2022 SB 347, to negotiate with a qualified firm and enter into a third APEX agreement. The new incentive package would include different ranges of incentives amounts, that in some cases are refundable or non-refundable. In addition, some of the incentives could be spread out over multiple years, which could spread the fiscal effect over those years.

The Department of Revenue estimates that the changes to tax credits related to qualified suppliers have the potential to reduce State General Fund revenues by up to \$1.2 million. The fiscal effect would likely be spread out over multiple fiscal years based on the agreements made and the timing of the completion of the qualified supplier's qualified investment.

The Department of Revenue indicates that the bill would require \$173,376 from the State General Fund in FY 2024 to implement the bill and to modify the automated tax system. The required programming for this bill by itself would be performed by existing staff of the Department of Revenue. In addition, if the combined effect of implementing this bill and other enacted legislation exceeds the Department's programming resources, or if the time for implementing the changes is too short, additional expenditures for outside contract programmer services beyond the Department's current budget may be required.

The Department of Commerce indicates that it is currently responsible for administering the APEX Program. The Department indicates that the administrative costs associated with implementing the bill would be accomplished within existing staff levels and resources. The APEX policy changes associated with HB 2334 are reflected in *The FY 2024 Governor's Budget Report*; however, without knowledge of a specific incentive agreement, the precise fiscal effect of these changes was not estimated.

Sincerely,



Adam Proffitt  
Director of the Budget

cc: Sherry Rentfro, Department of Commerce  
Lynn Robinson, Department of Revenue