

LIMITED-SCOPE AUDIT PROPOSAL
Department of Commerce: Evaluating the Department's Compliance with
Statutory Caps for the PEAK Program

SOURCE

This audit proposal was requested by Senator Jim Denning.

BACKGROUND

The Promoting Employment Across Kansas (PEAK) program is one of several economic development programs in the state. Created in 2009, PEAK promotes job growth and retention in the state by allowing businesses to retain a portion of their employees' tax withholdings for up to ten years. Specifically, businesses can keep 95% of tax withholdings for eligible employees that would normally be remitted to the state. The Department of Commerce is responsible for approving and monitoring PEAK agreements and the Department of Revenue administers program benefits. As of 2015, the Department of Commerce had entered into 231 PEAK agreements representing an estimated \$392 million in benefits.

In 2009, the Legislature established an annual cap on PEAK benefits to limit how much businesses could claim through the program. Our 2013 audit of economic development incentives found Department of Commerce officials exceeded this cap, in part because they had misinterpreted the law. In response, the 2014 Legislature amended the law to establish new and more specific caps on PEAK program benefits.

AUDIT OBJECTIVES AND TENTATIVE METHODOLOGY

The audit objective listed below represents the question that we would answer through our audit work. The proposed steps for the objective are intended to convey the type of work we would do, but are subject to change as we learn more about the audit issues and are able to refine our methodology.

Objective 1: Has the Department of Commerce adhered to the new PEAK caps outlined in the 2014 law? Our tentative methodology would include the following:

- Review state law to determine what caps currently exist for PEAK program benefits and how those caps affect the maximum amount of benefits the Department of Commerce can distribute in a given fiscal year.
- Work with Department of Commerce staff to identify how much businesses have received in PEAK benefits in recent fiscal years.
- Compare the amount of PEAK benefits received in recent fiscal years to statutorily allowed maximums to determine if the Department of Commerce has complied with state law.

ESTIMATED RESOURCES

We estimate this audit would require **100 staff hours** to complete.