

SESSION OF 2009

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE BILL NO. 97**

As Agreed to April 1, 2009

Brief*

SB 97 would enact the Promoting Employment Across Kansas (PEAK) Act.

The bill would authorize a diversion of employee withholding taxes under certain circumstances to “qualified” companies or third parties performing services on behalf of such companies.

Qualified companies generally would include those which have closed down an existing business entity outside the state and have relocated the entity in Kansas and have made available to full-time employees adequate health insurance for which the companies would pay at least 50 percent of the premiums. Companies meeting these requirements also would be able to qualify if they have contracted with third parties to perform services as the legal employer of newly relocated employees.

Business entities within certain industry groups and sectors (including bioscience companies, gambling entities, religious organizations, retailers, and utilities) would be excluded from being considered as qualified companies. Companies delinquent in payment of non-protested taxes to any governmental entity also would be disqualified, as would companies which have filed for bankruptcy or announced their intention to do so. Companies participating in other statutory withholding tax diversion programs also would not be eligible.

*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

Ccrb97_001_22.wpd

Companies meeting these criteria which also locate in a metropolitan county (Douglas, Johnson, Sedgwick, Shawnee, Wyandotte) and hire at least 10 new employees within two years or locate in a non-metropolitan county and hire at least five new employees within two years would be eligible to retain 95 percent of new employee withholding taxes for a period of five to seven years, provided such employees are compensated at a rate equal to at least 100 percent of the county average wage.

Certain “high-impact” projects resulting in the hiring of at least 100 new employees within five years, regardless of location, could qualify for withholding tax diversions of 95 percent for seven to 10 years, provided such employees are compensated at a rate equal to at least 100 percent of the county average wage.

Qualified companies would be required to submit agreement applications for the revenue-diversion program to the Secretary of Commerce. The Secretary would be required to conduct an annual review of activities undertaken by qualified companies. The Department of Revenue also would be authorized to disclose certain taxpayer-specific information to the Secretary of Commerce to assist with compliance audits associated with the program. The Secretary also would be required to submit an annual report to the various legislative committees on the overall impact of the program.

Certain income tax credits associated with hiring new employees under current law also would no longer be available to companies participating in this program.

Conference Committee Action

The Conference Committee agreed on April 1 to remove the bill’s original provisions, which would have clarified the Department of Revenue’s authority relative to the revocation and suspension of certain entities delinquent in remittance of liquor enforcement taxes.

The Conference Committee further agreed to insert the provisions of HB 2365 as amended by the House Committee of the Whole.

Background

The bill would be expected to have the following impact on receipts:

	(\$ in millions)
FY 2010	(\$1.950)
FY 2011	(\$3.978)
FY 2012	(\$6.006)
FY 2013	(\$8.034)
FY 2014	(\$10.062)
5-Year Total	(\$30.030)