

**SENATE BILL No. 445**

By Committee on Ways and Means

3-19

1 AN ACT concerning economic development; relating to business  
2 recruitment, PEAK; amending K.S.A. 2013 Supp. 74-50,211 and 74-  
3 50,213 and repealing the existing sections.

4  
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2013 Supp. 74-50,211 is hereby amended to read as  
7 follows: 74-50,211. As used in this act, unless the context otherwise  
8 requires:

9 (a) "Act" means the provisions of K.S.A. 2013 Supp. 74-50,210  
10 through 74-50,219, and amendments thereto.

11 (b) *"Approved representative" means an individual engaged by the*  
12 *secretary to provide business recruitment services and who materially*  
13 *participates in the successful qualification of a qualified company for*  
14 *benefits under this act pursuant to K.S.A. 2013 Supp. 74-50,212(a)(1) or*  
15 *(2), and amendments thereto.*

16 (c) "County median wage" means the median wage paid to employees  
17 located in the county where the qualified company intends to employ new  
18 employees as reported by the department of labor in its annual report for  
19 the previous year.

20 ~~(e)~~ (d) "Department" means the department of commerce.

21 ~~(d)~~ (e) "Expanding business" means the expansion of an existing  
22 business facility, office, department or other operation located in the state  
23 of Kansas and locating in Kansas the jobs directly related to such business  
24 facility, office, department or other operation.

25 ~~(e)~~ (f) "High-impact project" means a business development project  
26 for which the qualified company shall meet the requirements of subsection  
27 (c) of K.S.A. 2013 Supp. 74-50,212, and amendments thereto.

28 ~~(f)~~ (g) "Metropolitan county" means the county of Douglas, Johnson,  
29 Leavenworth, Sedgwick, Shawnee or Wyandotte.

30 ~~(g)~~ (h) "NAICS" means the North American industry classification  
31 system.

32 ~~(h)~~ (i) "NAICS code industry average wage" means the average wage  
33 paid to employees of companies classified in the same NAICS code as the  
34 qualified company for the region in which the qualified company intends  
35 to employ new employees as reported by the department of labor in its  
36 annual report for the previous year.

1       (†) (j) "New business" means a facility, plant, division, office,  
2 department, production line, production shift or other business operations  
3 of a company that was not doing business in Kansas prior to the  
4 submission of an application for benefits under this act and that provides  
5 documentation of such to the satisfaction of the secretary.

6       (†) (k) "New employee" means a person newly employed by the  
7 qualified company in the qualified company's business operating in Kansas  
8 during the taxable year for which benefits are sought under K.S.A. 2013  
9 Supp. 74-50,212, and amendments thereto. A person shall be deemed to be  
10 so engaged if such person performs duties in Kansas in connection with  
11 the operation of the Kansas business on: (1) A regular, full-time basis; or  
12 (2) a part-time basis, provided such person is customarily performing such  
13 duties at least 20 hours per week throughout the taxable year. Employees  
14 performing functions directly related to a relocating, expanding, or new  
15 business facility, office, department or other operation shall be considered  
16 new employees.

17       (†) (l) "Non-metropolitan county" means any county that is not a  
18 metropolitan county.

19       (†) (m) (1) (A) "Qualified company" means any for-profit corporation,  
20 partnership or other entity making available to its full-time employees  
21 adequate health insurance coverage and paying at least 50% of the  
22 premium for such health insurance, which meets the requirements of  
23 K.S.A. 2013 Supp. 74-50,212, and amendments thereto, and submits an  
24 application for benefits meeting requirements established by the secretary.

25       (B) "Qualified company" also includes any not-for-profit corporation  
26 which locates within the state of Kansas a regional, national or  
27 international headquarters and which meets the requirements of  
28 subparagraph (A).

29       (2) "Qualified company" shall not include any corporation,  
30 partnership or other entity: (A) Which is identified by any of the following  
31 NAICS code groups, sectors or subsectors:

32       (i) Industry group 7132 or 8131;

33       (ii) sectors 44, 45, 61, 92 or 221 (including water and sewer services);

34 or

35       (iii) subsector 722;

36       (B) which is a bioscience company, as defined in K.S.A. 2013 Supp.  
37 74-99b33, and amendments thereto;

38       (C) which is delinquent in the payment of any nonprotested taxes or  
39 any other amounts due to the federal government, the state of Kansas or  
40 any other political taxing subdivision; or

41       (D) which has filed for or has publicly announced its intention to file  
42 for bankruptcy protection.

43       (3) Notwithstanding any provision of this subsection, except for

1 paragraphs (2)(B), (C) and (D), a company may be deemed a qualified  
2 company if such company's headquarters or administrative offices located  
3 in this state serve an international or multi-state territory and such  
4 company meets the requirements of K.S.A. 2013 Supp. 74-50,212, and  
5 amendments thereto.

6 ~~(m)~~ (n) "Retained job" means an existing job which will be lost  
7 without participation by the employer under the provisions of the  
8 promoting employment across Kansas act.

9 ~~(n)~~ (o) "Secretary" means the secretary of the department of  
10 commerce.

11 Sec. 2. K.S.A. 2013 Supp. 74-50,213 is hereby amended to read as  
12 follows: 74-50,213. (a) Any qualified company meeting the requirements  
13 of K.S.A. 2013 Supp. 74-50,212, and amendments thereto, may apply to  
14 the secretary for benefits under this act. The application shall be submitted  
15 on a form and in a manner prescribed by the secretary, and shall include:  
16 (1) Evidence that the applicant is a qualified company; and (2) evidence  
17 that the applicant meets the requirements of K.S.A. 2013 Supp. 74-50,212,  
18 and amendments thereto.

19 (b) The secretary may either approve or disapprove the application.  
20 Any qualified company whose application is approved shall be eligible to  
21 receive benefits under this act as of the date such qualified company enters  
22 into an agreement with the secretary in accordance with this section.

23 (c) Upon approval of an application for benefits under this act, the  
24 secretary may enter into an agreement with the qualified company for  
25 benefits under this act. If necessary, the secretary may also enter into an  
26 agreement with any third party described in subsection (a) of K.S.A. 2013  
27 Supp. 74-50,212, and amendments thereto, or such third party may be a  
28 party to the agreement between the qualified company and the secretary.  
29 The agreement shall commit the secretary to certify to the secretary of  
30 revenue: (1) That the qualified company is eligible to receive benefits  
31 under this act; (2) the number of new employees hired by the qualified  
32 company; and (3) the amount of gross wages being paid to each new  
33 employee. *Commencing July 1, 2014, and through June 30, 2016, the*  
34 *secretary is authorized to enter into an agreement with the qualified*  
35 *company to allow a specified portion of the benefits awarded the company*  
36 *under this act to be paid to an approved representative.*

37 (d) The agreement between the qualified company and the secretary  
38 shall be entered into before any benefits may be provided under this act,  
39 and shall specify that should the qualified company fail to comply with the  
40 terms and conditions set forth in the agreement, or fails to comply with the  
41 provisions set forth in this act, the secretary may terminate the agreement,  
42 and the qualified company shall not be entitled to any further benefits  
43 provided under this act and shall be required to remit to the state an

1 amount equal to the aggregate Kansas payroll withholding taxes retained  
2 by the qualified company, or remitted to the qualified company by a third  
3 party, pursuant to this act as of the date the agreement is terminated.

4 (e) A qualified company that is already receiving benefits pursuant to  
5 this act may apply to the secretary for additional benefits if the qualified  
6 company meets the requirements of K.S.A. 2013 Supp. 74-50,212, and  
7 amendments thereto.

8 (f) A qualified company seeking benefits shall be allowed to  
9 participate in the IMPACT program pursuant to K.S.A. 74-50,102 et seq.,  
10 and amendments thereto, but shall not be allowed to participate in any  
11 other program in which any portion of such qualified company's Kansas  
12 payroll withholding taxes have been pledged to finance indebtedness or  
13 transferred to or for the benefit of such company. A qualified company  
14 shall not be allowed to claim any credits under K.S.A. 79-32,153, 79-  
15 32,160a or 79-32,182b, and amendments thereto, if such credits would  
16 otherwise be earned for the hiring of new employees and the qualified  
17 company has retained any Kansas payroll withholding taxes from wages of  
18 such employees. A qualified company shall not be eligible to receive  
19 benefits under K.S.A. 2013 Supp. 74-50,212, and amendments thereto, and  
20 under K.S.A. 74-50,102 et seq., and amendments thereto, for the same new  
21 employees.

22 (g) (1) Under no circumstances shall the total amount of benefits  
23 authorized or granted to the aggregate of all expanding businesses, as such  
24 term is defined in K.S.A. 2013 Supp. 74-50,211, and amendments thereto,  
25 under this act exceed \$4,800,000 in the fiscal year commencing on July 1,  
26 2011, and \$6,000,000 in any fiscal year commencing on or after July 1,  
27 2012.

28 (2) Under no circumstances shall the total amount of benefits  
29 authorized or granted to the aggregate of businesses under subsections (e)  
30 or (f) of K.S.A. 2013 Supp. 74-50,212, and amendments thereto, exceed  
31 \$1,200,000 in the fiscal year commencing on July 1, 2012, \$2,400,000 in  
32 the fiscal year commencing on July 1, 2013, and \$1,200,000 in the fiscal  
33 year commencing on July 1, 2014.

34 (h) The secretary shall adopt rules and regulations necessary to  
35 implement and administer the provisions of this act.

36 Sec. 3. K.S.A. 2013 Supp. 74-50,211 and 74-50,213 are hereby  
37 repealed.

38 Sec. 4. This act shall take effect and be in force from and after its  
39 publication in the statute book.