

**SENATE BILL No. 222**

By Committee on Assessment and Taxation

3-7

1 AN ACT concerning economic development; relating to the promoting  
2 employment across Kansas act, one-year moratorium; amending K.S.A.  
3 2016 Supp. 74-50,212 and 74-50,213 and repealing the existing  
4 sections.

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

7 Section 1. K.S.A. 2016 Supp. 74-50,212 is hereby amended to read as  
8 follows: 74-50,212. (a) In order to qualify for benefits under this act a  
9 qualified company shall:

10 (1) Relocate to Kansas an existing business facility, office,  
11 department or other operation doing business outside the state of Kansas  
12 and locate the jobs directly related to such relocated business facility,  
13 office, department or other operation in Kansas;

14 (2) locate a new business facility, office, department or other  
15 operation in Kansas and locate the jobs directly related to such business  
16 facility, office, department or other operation in Kansas; or

17 (3) expand an existing business facility, office, department or other  
18 operation located in the state of Kansas and locate the jobs directly related  
19 to such business facility, office, department or other operation in Kansas,  
20 except that no payroll withholding taxes shall be retained prior to January  
21 1, 2012.

22 *The secretary shall not approve any application for benefits under this*  
23 *act on and after July 1, 2017, and before July 1, 2018.*

24 A qualified company may utilize or contract with a third-party  
25 employer to perform services whereby the third-party employer serves as  
26 the legal employer of the new employees providing services to the  
27 qualified company and such services are performed in Kansas and the  
28 third-party employer and the new employees are subject to the Kansas  
29 withholding and declaration of estimated tax act.

30 (b) Any qualified company, approved by the secretary for benefits  
31 pursuant to ~~paragraph~~ subsection (a), that locates *or expands* its business  
32 operation in a metropolitan county and will hire at least 10 new employees  
33 within two years from the date the qualified company enters into an  
34 agreement with the secretary pursuant to K.S.A. 2016 Supp. 74-50,213,  
35 and amendments thereto, or any qualified company, approved by the  
36 secretary for benefits pursuant to ~~paragraph~~ subsection (a), that locates *or*

1 *expands* its business operation in a non-metropolitan county and will hire  
2 at least five new employees within two years from the date the qualified  
3 company enters into an agreement with the secretary pursuant to K.S.A.  
4 2016 Supp. 74-50,213, and amendments thereto, shall: (1) Be eligible to  
5 retain 95% of the qualified company's Kansas payroll withholding taxes  
6 for such new employees being paid the county median wage or higher for  
7 a period of up to:

8 (A) Five years if the median wage or average wage paid to the new  
9 employees is equal to at least 100% of the county median wage;

10 (B) six years if the median wage or average wage paid to the new  
11 employees is equal to at least 110% of the county median wage;

12 (C) seven years if the median wage or average wage paid to the new  
13 employees is equal to at least 120% of the county median wage; or

14 (2) be eligible to retain 95% of the qualified company's Kansas  
15 payroll withholding taxes for such new employees being paid the county  
16 median wage or higher for a period of up to five years if the median wage  
17 or average wage paid to the new employees is equal to at least 100% of the  
18 NAICS code industry average wage.

19 *The secretary shall not approve any application for benefits under this*  
20 *subsection on and after July 1, 2017, and before July 1, 2018.*

21 (c) Any qualified company, approved by the secretary for benefits  
22 pursuant to ~~paragraph~~ subsection (a), that engages in a high-impact project  
23 whereby the qualified company will hire at least 100 new employees  
24 within two years from the date the qualified company enters into an  
25 agreement with the secretary pursuant to K.S.A. 2016 Supp. 74-50,213,  
26 and amendments thereto, shall be eligible to retain 95% of the qualified  
27 company's Kansas payroll withholding taxes for such new employees  
28 being paid the county median wage or higher for a period of up to:

29 (1) Seven years if the median wage or average wage paid to the new  
30 employees is equal to at least 100% of the county median wage;

31 (2) eight years if the median wage or average wage paid to the new  
32 employees is equal to at least 110% of the county median wage;

33 (3) nine years if the median wage or average wage paid to the new  
34 employees is equal to at least 120% of the county median wage; or

35 (4) ten years if the median wage or average wage paid to the new  
36 employees is equal to at least 140% of the county median wage.

37 *The secretary shall not approve any application for benefits under this*  
38 *subsection on and after July 1, 2017, and before July 1, 2018.*

39 (d) In the event that a qualified company contracts with a third party  
40 as described in subsection (a), the third party shall remit payments equal to  
41 the amount of Kansas payroll withholding taxes the qualified company is  
42 eligible to retain under this section to the qualified company, and report  
43 such amount to the department of revenue as required pursuant to

1 ~~subsection (a)~~ of K.S.A. 2016 Supp. 74-50,214(a), and amendments  
2 thereto.

3 (e) Commencing January 1, 2013, and ending June 30, ~~2018~~ 2017,  
4 any company, which meets the criteria provided pursuant to the provisions  
5 of K.S.A. 2016 Supp. 74-50,211, and amendments thereto, that retains the  
6 employees of an existing business unit located in Kansas and enters into an  
7 agreement with the secretary pursuant to K.S.A. 2016 Supp. 74-50,213,  
8 and amendments thereto, shall be eligible to retain 95% of the qualified  
9 company's Kansas payroll withholding taxes for such employees for a  
10 period of up to five years.

11 (f) (1) Commencing January 1, 2013, and ending June 30, ~~2018~~ 2017,  
12 pursuant to the provisions of subsection (e), the secretary of commerce, in  
13 the secretary's sole determination, may provide the benefits of the  
14 promoting employment across Kansas act for situations where it is deemed  
15 necessary by the secretary that the state of Kansas provide incentives for a  
16 company or its operations currently located in Kansas to remain in Kansas  
17 so as to keep its retained jobs. The secretary shall establish and verify that  
18 a prospective company has competitive alternatives that it is seriously  
19 considering and that a company's relocation may be imminent.  
20 Furthermore, the secretary shall assess:

21 (A) Whether the retention of the company or its operations is  
22 important to the economic vitality of the state;

23 (B) the area where such company or operations is located; or

24 (C) whether the retention of the company or its operations is  
25 important to a particular industry in the state due to any number of factors  
26 including, but not limited to, the quantity, quality or wages of the retained  
27 jobs involved.

28 (2) Effective January 1, 2013, and ending June 30, ~~2018~~ 2017, the  
29 secretary may use the promoting employment across Kansas act in  
30 conjunction with other economic development programs to develop a  
31 retention package.

32 (g) The provisions of this act as in effect prior to ~~the effective date of~~  
33 ~~this act~~ July 1, 2011, shall apply to employers who have entered into  
34 agreements with the secretary prior to July 1, 2011. The provisions of this  
35 act shall apply to employers who enter into agreements with the secretary  
36 on and after July 1, 2011.

37 (h) In the event a qualified company entered into an agreement for  
38 benefits under this section prior to January 1, 2013, such qualified  
39 company may request the secretary to extend the benefit term of such  
40 agreement by a period of up to two additional years. If in the secretary's  
41 discretion it is necessary to provide the qualified company with all benefits  
42 intended under such agreement, the extension may be granted.

43 Sec. 2. K.S.A. 2016 Supp. 74-50,213 is hereby amended to read as

1 follows: 74-50,213. (a) Any qualified company meeting the requirements  
2 of K.S.A. 2016 Supp. 74-50,212, and amendments thereto, may apply to  
3 the secretary for benefits under this act. The application shall be submitted  
4 on a form and in a manner prescribed by the secretary, and shall include:  
5 (1) Evidence that the applicant is a qualified company; and (2) evidence  
6 that the applicant meets the requirements of K.S.A. 2016 Supp. 74-50,212,  
7 and amendments thereto.

8 (b) The secretary may either approve or disapprove the application.  
9 Any qualified company whose application is approved shall be eligible to  
10 receive benefits under this act as of the date such qualified company enters  
11 into an agreement with the secretary in accordance with this section. *The*  
12 *secretary shall not approve any application for benefits under this act on*  
13 *and after July 1, 2017, and before July 1, 2018.*

14 (c) Upon approval of an application for benefits under this act, the  
15 secretary may enter into an agreement with the qualified company for  
16 benefits under this act. If necessary, the secretary may also enter into an  
17 agreement with any third party described in ~~subsection (a)~~ of K.S.A. 2016  
18 Supp. 74-50,212(a), and amendments thereto, or such third party may be a  
19 party to the agreement between the qualified company and the secretary.  
20 The agreement shall commit the secretary to certify to the secretary of  
21 revenue: (1) That the qualified company is eligible to receive benefits  
22 under this act; (2) the number of new employees hired by the qualified  
23 company; and (3) the amount of gross wages being paid to each new  
24 employee.

25 *The secretary shall not enter into any agreements for benefits under*  
26 *this act on and after July 1, 2017, and before July 1, 2018.*

27 (d) The agreement between the qualified company and the secretary  
28 shall be entered into before any benefits may be provided under this act,  
29 and shall specify that should the qualified company fail to comply with the  
30 terms and conditions set forth in the agreement, or fails to comply with the  
31 provisions set forth in this act, the secretary may terminate the agreement,  
32 and the qualified company shall not be entitled to any further benefits  
33 provided under this act and shall be required to remit to the state an  
34 amount equal to the aggregate Kansas payroll withholding taxes retained  
35 by the qualified company, or remitted to the qualified company by a third  
36 party, pursuant to this act as of the date the agreement is terminated.

37 (e) A qualified company that is already receiving benefits pursuant to  
38 this act may apply to the secretary for additional benefits if the qualified  
39 company meets the requirements of K.S.A. 2016 Supp. 74-50,212, and  
40 amendments thereto. *The secretary shall not grant any additional benefits*  
41 *under this subsection on and after July 1, 2017, and before July 1, 2018.*

42 (f) A qualified company seeking benefits shall be allowed to  
43 participate in the IMPACT program pursuant to K.S.A. 74-50,102 et seq.,

1 and amendments thereto, but shall not be allowed to participate in any  
2 other program in which any portion of such qualified company's Kansas  
3 payroll withholding taxes have been pledged to finance indebtedness or  
4 transferred to or for the benefit of such company. A qualified company  
5 shall not be allowed to claim any credits under K.S.A. 79-32,153, 79-  
6 32,160a or 79-32,182b, and amendments thereto, if such credits would  
7 otherwise be earned for the hiring of new employees and the qualified  
8 company has retained any Kansas payroll withholding taxes from wages of  
9 such employees. A qualified company shall not be eligible to receive  
10 benefits under K.S.A. 2016 Supp. 74-50,212, and amendments thereto, and  
11 under K.S.A. 74-50,102 et seq., and amendments thereto, for the same new  
12 employees.

13 (g) (1) Under no circumstances shall the total amount of benefits  
14 received by the aggregate of all expanding businesses, as such term is  
15 defined in K.S.A. 2016 Supp. 74-50,211, and amendments thereto, under  
16 this act exceed \$4,800,000 in the fiscal year commencing on July 1, 2011,  
17 \$6,000,000 in the fiscal year commencing on July 1, 2012, \$12,000,000 in  
18 the fiscal year commencing on July 1, 2013, \$18,000,000 in the fiscal year  
19 commencing on July 1, 2014, \$24,000,000 in the fiscal year commencing  
20 on July 1, 2015, \$30,000,000 in the fiscal year commencing on July 1,  
21 2016, \$36,000,000 in the fiscal year commencing on July 1, 2017, and  
22 \$42,000,000 in any fiscal year commencing on or after July 1, 2018.

23 (2) Under no circumstances shall the total amount of benefits  
24 received by the aggregate of businesses under ~~subsections (e) or (f) of~~  
25 K.S.A. 2016 Supp. 74-50,212 ~~(e) or (f)~~, and amendments thereto, exceed  
26 \$1,200,000 in the fiscal year commencing on July 1, 2012, \$2,400,000 in  
27 the fiscal year commencing on July 1, 2013, \$1,200,000 in the fiscal year  
28 commencing on July 1, 2014, \$1,200,000 in the fiscal year commencing  
29 on July 1, 2015, \$1,200,000 in the fiscal year commencing on July 1,  
30 2016, and \$1,200,000 in the fiscal year commencing on July 1, 2017.

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

33 Sec. 3. K.S.A. 2016 Supp. 74-50,212 and 74-50,213 are hereby  
34 repealed.

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