

**As Amended by House Committee**

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**As Amended by Senate Committee**

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*Session of 2004*

## **SENATE BILL No. 394**

By Committee on Commerce

1-29

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12 AN ACT concerning the department of commerce; relating to IMPACT;  
13 amending K.S.A. 2003 Supp. 74-50,103, 74-50,104, 74-50,107 and 74-  
14 50,108 and repealing the existing sections.

15  
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 2003 Supp. 74-50,103 is hereby amended to read  
18 as follows: 74-50,103. As used in the IMPACT act unless the context  
19 clearly requires otherwise:

20 (a) "Act" means the Kansas investments in major projects and com-  
21 prehensive training act.

22 (b) "Agreement" means the agreement among an employer, an ed-  
23 ucational institution and the secretary of commerce concerning a SKILL  
24 project or a combined SKILL project and major project investment and  
25 the agreement between an employer and the secretary of commerce con-  
26 cerning a major project investment.

27 (c) "Bond" means a public purpose bond issued for IMPACT projects  
28 by the Kansas development finance authority.

29 (d) "Date of commencement of the project" means the date of the  
30 agreement.

31 (e) "Educational institution" means a community college, as defined  
32 by K.S.A. 71-701, and amendments thereto, an area vocational school or  
33 area vocational-technical school, as defined by K.S.A. 72-4412, and  
34 amendments thereto, a university, as defined by K.S.A. 72-6501, and  
35 amendments thereto, ~~or~~ a state educational institution, as defined by  
36 K.S.A. 76-711, and amendments thereto, **or a technical college as es-**  
37 **ablished by K.S.A. 72-4468, and amendments thereto.**

38 (f) "Employee" means a person employed in a new or retained job.

39 (g) "Employer" means a Kansas basic enterprise providing new jobs  
40 or retaining existing jobs in conjunction with a project.

41 (h) "IMPACT program" or "program" means the major project in-  
42 vestments and SKILL projects undertaken by the department of com-  
43 merce in accordance with the provisions of this act for a new or expanding

- 1 Kansas basic enterprise.
- 2 (i) “IMPACT project” or “project” means a SKILL project, major  
3 project investment or a combination of the two.
- 4 (j) “Kansas basic enterprise” means any enterprise:
- 5 (1) Which is located or principally based in Kansas; and
- 6 (2) which can provide demonstrable evidence that:
- 7 (A) It is primarily engaged in any one or more of the Kansas basic  
8 industries; or
- 9 (B) it is primarily engaged in the development or production of goods  
10 or the provision of services for out-of-state sale; or
- 11 (C) it is primarily engaged in the production of goods or the provision  
12 of services which will attract out-of-state buyers or consumers into the  
13 state; or
- 14 (D) it is primarily engaged in the production of raw materials, ingre-  
15 dients, or components for other enterprises which export the majority of  
16 their products from the state; or
- 17 (E) it is a national or regional enterprise which is primarily engaged  
18 in interstate commerce or an affiliated management company of such an  
19 enterprise; or
- 20 (F) it is primarily engaged in the production of goods or the provision  
21 of services which will supplant goods or services which would be imported  
22 into the state; or
- 23 (G) it is the corporate or regional headquarters of a multistate enter-  
24 prise which is primarily engaged in out-of-state industrial activities.
- 25 (k) “Kansas basic industry” means:
- 26 (1) Agriculture;
- 27 (2) mining;
- 28 (3) manufacturing;
- 29 (4) interstate transportation;
- 30 (5) wholesale trade which is primarily multistate in activity or which  
31 has a major import supplanting effect within the state;
- 32 (6) financial services which are provided primarily for interstate or  
33 international transactions;
- 34 (7) business services which are provided primarily in out-of-state  
35 markets;
- 36 (8) research and development of new products, processes, or tech-  
37 nologies; or
- 38 (9) tourism activities which are primarily engaged in for the purpose  
39 of attracting out-of-state tourists.
- 40 (l) “Major project investment” or “investment” means financial assis-  
41 tance to an employer to defray business costs including, but not limited  
42 to, relocation expenses, building and equipment purchases, labor recruit-  
43 ment and job retention.

1 (m) “New job” means a job in a new or expanding Kansas basic en-  
2 terprise not including jobs of recalled workers, or existing jobs that are  
3 vacant or other jobs that formerly existed in the Kansas basic enterprise  
4 in Kansas.

5 (n) “Primarily engaged” means engagement in an activity by an en-  
6 terprise to the extent that not less than 51% of the gross income of the  
7 enterprise is derived from such engagement.

8 (o) “Program costs” means all necessary and incidental costs of pro-  
9 viding program services, except that program costs shall not include: (1)  
10 Any wages paid to persons receiving education or training under a project,  
11 (2) any costs for purchase or lease of training equipment that exceed 50%  
12 of total program costs for the project, ~~and~~ (3) any costs for administrative  
13 expenses ~~of educational institutions~~ that exceed 10% of total program  
14 costs for the project, **and (4) any costs for direct investments in ed-**  
15 **ucation and related workforce development institutions, for im-**  
16 **provements to workforce development, human capital, training ex-**  
17 **pertise and infrastructure that exceed ~~10%~~ 15% of total program**  
18 **costs.**

19 (p) “Program services” means:

20 (1) New jobs training, including training development costs, except  
21 that the actual training period for any new job shall not exceed 36 months  
22 from the date the job is first filled by an employee;

23 (2) adult basic education and job-related instruction;

24 (3) vocational and skill-assessment services and testing;

25 (4) training equipment for education institutions;

26 (5) material and supplies;

27 (6) administrative expenses of educational institutions for new jobs  
28 training programs;

29 (7) subcontracted services with other educational institutions, private  
30 colleges or universities or other federal, state or local agencies; ~~and~~

31 (8) contracted or professional service;

32 (9) major project investments; *and*

33 (10) *direct investments in educational and related workforce devel-*  
34 *opment institutions, for improvements to workforce development, human*  
35 *capital, training expertise and infrastructure.*

36 (q) “Retained job” means an existing job which will be lost without  
37 participation by the employer under the provisions of the IMPACT  
38 program.

39 (r) “Secretary” means the secretary of commerce.

40 (s) “SKILL project” means a training arrangement which is the sub-  
41 ject of an agreement entered into between the educational institution and  
42 an employer to provide program services.

43 Sec. 2. K.S.A. 2003 Supp. 74-50,104 is hereby amended to read as

1 follows: 74-50,104. (a) The secretary ~~of commerce~~ shall administer the  
2 provisions of this act and the IMPACT program established thereunder.  
3 The secretary ~~of commerce~~ shall encourage Kansas basic enterprises with  
4 similar training needs to cooperate in establishing SKILL projects. The  
5 secretary ~~of commerce~~ shall coordinate the SKILL program with other  
6 job training programs administered by the department of commerce. The  
7 secretary ~~of commerce~~ shall provide opportunities for coordination and  
8 cooperation of SKILL projects with other job training activities in Kansas.  
9 ~~The Subject to the limitation in K.S.A. 74-50,103, the secretary shall~~  
10 ~~be authorized to make direct investments in educational and related work-~~  
11 ~~force development institutions, for the purpose of promoting improve-~~  
12 ~~ments in workforce development, human capital, training expertise and~~  
13 ~~infrastructure.~~

14 (b) The secretary ~~of commerce~~ shall adopt rules and regulations as  
15 follows: (1) Prescribing review standards and priorities for approval of  
16 proposed agreements under this act, including appropriate incentives for  
17 cooperation among projects, in order to maximize the number of new  
18 jobs created with respect to individual Kansas basic enterprises, which  
19 will remain in Kansas, and (2) prescribing limits on program costs and on  
20 project and program size in relation to the number of new jobs created  
21 or the wages of new jobs created. No agreement shall be approved which  
22 provides for program costs of a project under the agreement of more than  
23 90% of the amount equal to the estimated rate of withholding tax applied  
24 to the estimated amount of gross wages of all the new jobs under the  
25 project over a ten-year period.

26 (c) Notice of the approval of a project or program under the IMPACT  
27 act shall be provided to the chairpersons of the senate committee on  
28 commerce and the committee on economic development of the house of  
29 representatives.

30 (d) The secretary ~~of commerce~~ may adopt such other rules and reg-  
31 ulations as may be required for the implementation and administration  
32 of this act.

33 Sec. 3. K.S.A. 2003 Supp. 74-50,107 is hereby amended to read as  
34 follows: 74-50,107. (a) The secretary ~~of commerce~~ shall determine and  
35 from time to time shall redetermine the rate at which moneys shall be  
36 credited to the IMPACT program repayment fund in order to satisfy all  
37 bond repayment obligations which have been incurred to finance program  
38 costs for IMPACT programs (which shall be referred to as the debt serv-  
39 ice rate) and the rate at which moneys shall be credited to the IMPACT  
40 program services fund in order to finance program costs that are not  
41 financed by bonds (which shall be referred to as the direct funding rate).  
42 The total of the debt service rate and the direct funding rate shall be the  
43 combined rate. Each rate so determined shall be certified to the secretary

1 of revenue. ~~On and after July 1, 2003,~~ The combined rate determined  
2 under this subsection shall not exceed 1.5%. On and after July 1, 2005,  
3 the combined rate determined under this subsection shall not exceed 2%.

4 (b) Upon receipt of the rates determined and certified under sub-  
5 section (a), the secretary of revenue shall apply daily the combined rate  
6 to that portion of the moneys withheld from the wages of individuals and  
7 collected under the Kansas withholding and declaration of estimated tax  
8 act K.S.A. 79-3294 *et seq.*, and amendments thereto. The amount so de-  
9 termined shall be credited as follows: (1) The portion attributable to the  
10 debt service rate shall be credited to the IMPACT program repayment  
11 fund, and (2) the remaining portion shall be credited to the IMPACT  
12 program services fund.

13 ~~The aggregate of all amounts credited to the IMPACT program repay-~~  
14 ~~ment fund under this section during any fiscal year to pay bond repayment~~  
15 ~~obligations on bonds to finance major project investments shall not exceed~~  
16 ~~10% of the amount which results when the rate of 1% is applied to all~~  
17 ~~money withheld from the wages of individuals and received under the~~  
18 ~~Kansas withholding and declaration of estimated tax act.~~

19 ~~—On and after July 1, 2003,~~ The aggregate of all amounts credited to the  
20 IMPACT program repayment fund under this section during any fiscal  
21 year to pay bond repayment obligations on bonds to finance major project  
22 investments shall not exceed ~~10%~~ 20% of the amount which results when  
23 the rate of 1.5% is applied to all moneys withheld from the wages of  
24 individuals and received under the Kansas withholding and declaration  
25 of estimated tax act.

26 On and after July 1, 2005, the aggregate of all amounts credited to the  
27 IMPACT program repayment fund under this section during any fiscal  
28 year to pay bond repayment obligations on bonds to finance major project  
29 investments shall not exceed ~~10%~~ 20% of the amount which results when  
30 the rate of 2% is applied to all money withheld from the wages of indi-  
31 viduals and received under the Kansas withholding and declaration of  
32 estimated tax act.

33 Sec. 4. K.S.A. 2003 Supp. 74-50,108 is hereby amended to read as  
34 follows: 74-50,108. There is hereby created in the state treasury the IM-  
35 PACT program services fund. The secretary ~~of commerce~~ shall administer  
36 the IMPACT program services fund. All moneys credited to the ~~SKILL~~  
37 *IMPACT* program services fund shall be for all or part of the program  
38 costs of projects or major project investments approved by the secretary  
39 ~~of commerce~~ under this act, except that moneys in the IMPACT program  
40 services fund which are not required to pay program costs or major pro-  
41 jects investments may be transferred to the state general fund in accord-  
42 ance with provisions of appropriation acts. All expenditures from the IM-  
43 PACT program services fund shall be for the purposes of paying program

1 costs and shall be made in accordance with appropriations acts upon war-  
2 rants of the director of accounts and reports issued pursuant to vouchers  
3 approved by the secretary of commerce or the secretary's designee. The  
4 secretary of commerce shall remit all moneys received under this act,  
5 including the proceeds of bonds issued by the Kansas development fi-  
6 nance authority for the purposes of this act to the state treasurer in ac-  
7 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.  
8 Upon receipt of each such remittance, the state treasurer shall deposit  
9 the entire amount in the state treasury to the credit of the IMPACT  
10 program services fund.

11 Sec. 5. K.S.A. 2003 Supp. 74-50,103, 74-50,104, 74-50,107 and 74-  
12 50,108 are hereby repealed.

13 Sec. 6. This act shall take effect and be in force from and after its  
14 publication in the statute book.