

## HOUSE Substitute for SENATE BILL No. 180

By Committee on Taxation

3-25

---

9 AN ACT concerning the Kansas investments in major products and com-  
10 prehensive training act (IMPACT); amending K.S.A. 2007 Supp. 74-  
11 50,103, 74-50,104, 74-50,107 and 74-50,108 and repealing the existing  
12 sections.

13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2007 Supp. 74-50,103 is hereby amended to read  
16 as follows: 74-50,103. As used in the IMPACT act unless the context  
17 clearly requires otherwise:

18 (a) “Act” means the Kansas investments in major projects and com-  
19 prehensive training act.

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

25 (c) “Bond” means a public purpose bond issued for IMPACT projects  
26 by the Kansas development finance authority.

27 (d) “Date of commencement of the project” means the date of the  
28 agreement.

29 (e) “Educational institution” means a community college, as defined  
30 by K.S.A. 71-701, and amendments thereto, an area vocational school or  
31 area vocational-technical school, as defined by K.S.A. 72-4412, and  
32 amendments thereto, a university, as defined by K.S.A. 72-6501, and  
33 amendments thereto, a state educational institution, as defined by K.S.A.  
34 76-711, and amendments thereto, or a technical college as established by  
35 K.S.A. 72-4468, and amendments thereto.

36 (f) “Employee” means a person employed in a new or retained job.

37 (g) “Employer” means a Kansas basic enterprise providing new jobs  
38 or retaining existing jobs in conjunction with a project.

39 (h) “IMPACT program” or “program” means the major project in-  
40 vestments and SKILL projects undertaken by the department of com-  
41 merce in accordance with the provisions of this act for a new or expanding  
42 Kansas basic enterprise.

43 (i) “IMPACT project” or “project” means a SKILL project, major

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

1 vacant or other jobs that formerly existed in the Kansas basic enterprise  
2 in Kansas.

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

6 (o) “Program costs” means *costs of program services and includes* all  
7 necessary and incidental costs of providing program services, except that  
8 program costs shall not include: (1) Any wages paid to persons receiving  
9 education or training under a project, (2) any costs for purchase or lease  
10 of training equipment that exceed 50% of total program costs for the  
11 project, (3) any costs for administrative expenses that exceed 10% of total  
12 program costs for the project, and (4) any costs for direct investments in  
13 education and related workforce development institutions, for improve-  
14 ments to workforce development, human capital, training expertise and  
15 infrastructure that exceed 10% of total program costs.

16 (p) “Program services” means:

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

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

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

22 (4) training equipment for education institutions;

23 (5) material and supplies;

24 (6) administrative expenses of educational institutions for new jobs  
25 training programs;

26 (7) subcontracted services with other educational institutions, private  
27 colleges or universities or other federal, state or local agencies;

28 (8) contracted or professional service;

29 (9) major project investments; and

30 (10) direct investments in educational and related workforce devel-  
31 opment institutions, for improvements to workforce development, human  
32 capital, training expertise and infrastructure.

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

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

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

40 Sec. 2. K.S.A. 2007 Supp. 74-50,104 is hereby amended to read as  
41 follows: 74-50,104. (a) The secretary shall administer the provisions of  
42 this act and the IMPACT program established thereunder. The secretary  
43 shall encourage Kansas basic enterprises with similar training needs to

1 cooperate in establishing SKILL projects. The secretary shall coordinate  
2 the SKILL program with other job training programs administered by  
3 the department of commerce. The secretary shall provide opportunities  
4 for coordination and cooperation of SKILL projects with other job train-  
5 ing activities in Kansas. Subject to the limitation in K.S.A. 74-50,103, the  
6 secretary shall be authorized to make direct investments in educational  
7 and related workforce development institutions, for the purpose of pro-  
8 moting improvements in workforce development, human capital, training  
9 expertise, infrastructure and job retention.

10 (b) The secretary shall adopt rules and regulations as follows: (1) Pre-  
11 scribing review standards and priorities for approval of proposed agree-  
12 ments under this act, including appropriate incentives for cooperation  
13 among projects, in order to maximize the number of new jobs created or  
14 retained with respect to individual Kansas basic enterprises, which will  
15 remain in Kansas, and (2) prescribing limits on program costs and on  
16 project and program size in relation to the number of new jobs created  
17 and wages of new or retained jobs. *Prior to July 1, 2008*, no agreement  
18 shall be approved which provides for program costs of a project under  
19 the agreement of more than 95% of the amount equal to the estimated  
20 rate of withholding tax applied to the estimated amount of gross wages  
21 of all the new or retained jobs under the project over a ten-year period.

22 (c) Notice of the approval of a project or program and an annual  
23 report of the number of jobs created or retained under the IMPACT act  
24 shall be provided to the chairpersons of the senate committee on com-  
25 merce and the committee on economic development of the house of  
26 representatives.

27 (d) The secretary may adopt such other rules and regulations as may  
28 be required for the implementation and administration of this act.

29 Sec. 3. K.S.A. 2007 Supp. 74-50,107 is hereby amended to read as  
30 follows: 74-50,107. (a) The secretary shall determine and from time to  
31 time shall redetermine the rate at which moneys shall be credited to the  
32 IMPACT program repayment fund in order to satisfy all bond repayment  
33 obligations which have been incurred to finance program costs for IM-  
34 PACT programs, which shall be referred to as the debt service rate, and  
35 the rate at which moneys shall be credited to the IMPACT program  
36 services fund in order to finance program costs that are not financed by  
37 bonds, which shall be referred to as the direct funding rate. The total of  
38 the debt service rate and the direct funding rate shall be the combined  
39 rate. Each rate so determined shall be certified to the secretary of reve-  
40 nue. The combined rate determined under this subsection shall not ex-  
41 ceed 2%.

42 (b) Upon receipt of the rates determined and certified under sub-  
43 section (a), the secretary of revenue shall apply daily the combined rate

1 to that portion of the moneys withheld from the wages of individuals and  
2 collected under the Kansas withholding and declaration of estimated tax  
3 act K.S.A. 79-3294 et seq., and amendments thereto. The amount so  
4 determined shall be credited as follows: (1) The portion attributable to  
5 the debt service rate shall be credited to the IMPACT program repay-  
6 ment fund, and (2) the remaining portion shall be credited to the IM-  
7 PACT program services fund.

8 The aggregate of all amounts credited to the IMPACT program repay-  
9 ment fund under this section during any fiscal year to pay bond repayment  
10 obligations on bonds to finance major project investments shall not exceed  
11 the amount which results when the rate of 2% is applied to all money  
12 withheld from the wages of individuals and received under the Kansas  
13 withholding and declaration of estimated tax act.

14 *(c) On and after July 1, 2008, any unencumbered amounts remaining*  
15 *in the IMPACT program services fund on June 30 of each year shall be*  
16 *reappropriated to the IMPACT program services fund for the following*  
17 *fiscal year and shall be in addition to the amount credited to the fund*  
18 *pursuant to subsection (b)(2) of this section.*

19 *(d) On and after July 1, 2008, the secretary shall annually set aside*  
20 *moneys in the IMPACT program services fund as follows: (1) At least 15%*  
21 *of the moneys shall be for agreements with rural employers; and (2) at*  
22 *least 20% of the moneys shall be for agreements with small business em-*  
23 *ployers; except that no employer may qualify as both a rural employer*  
24 *and a small business employer. On June 30 of each year, any unencum-*  
25 *bered amounts of the moneys set aside shall be reappropriated to the*  
26 *IMPACT program services fund for the following fiscal year and shall not*  
27 *be subject to the set aside provisions.*

28 Sec. 4. K.S.A. 2007 Supp. 74-50,108 is hereby amended to read as  
29 follows: 74-50,108. There is hereby created in the state treasury the IM-  
30 PACT program services fund. The secretary shall administer the IM-  
31 PACT program services fund. All moneys credited to the IMPACT pro-  
32 gram services fund shall be for all or part of the program costs of projects  
33 or major project investments approved by the secretary under this act,  
34 except that moneys in the IMPACT program services fund which are not  
35 required to pay program costs or major projects investments ~~may be trans-~~  
36 ~~ferred to the state general fund in accordance with provisions of appro-~~  
37 ~~priation acts shall be reappropriated to the IMPACT program services~~  
38 ~~fund for the following fiscal year and shall be in addition to the amount~~  
39 ~~credited to the fund pursuant to subsection (b)(2) of K.S.A. 74-50,107,~~  
40 ~~and amendments thereto.~~ All expenditures from the IMPACT program  
41 services fund shall be for the purposes of paying program costs and shall  
42 be made in accordance with appropriations acts upon warrants of the  
43 director of accounts and reports issued pursuant to vouchers approved

1 by the secretary or the secretary's designee. The secretary shall remit all  
2 moneys received under this act, including the proceeds of bonds issued  
3 by the Kansas development finance authority for the purposes of this act  
4 to the state treasurer in accordance with the provisions of K.S.A. 75-4215,  
5 and amendments thereto. Upon receipt of each such remittance, the state  
6 treasurer shall deposit the entire amount in the state treasury to the credit  
7 of the IMPACT program services fund.

8 Sec. 5. K.S.A. 2007 Supp. 74-50,103, 74-50,104, 74-50,107 and 74-  
9 50,108 are hereby repealed.

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