

As Amended by Senate Committee

Session of 2008

SENATE BILL No. 489

By Joint Committee on Economic Development

1-28

10 AN ACT concerning economic development; regarding regional foun-
11 dation funds; amending K.S.A. 2007 Supp. 74-50,154 and repealing
12 the existing section.

13

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

15 Section 1. K.S.A. 2007 Supp. 74-50,154 is hereby amended to read
16 as follows: 74-50,154. (a) As used in this act: (1) “*Business support serv-*
17 *ices*” means *business counseling, technical assistance and business plan-*
18 *ning services provided to existing or prospective small businesses or*
19 *entrepreneurs;*

20 (2) “contributions” means and includes the donation of cash or prop-
21 erty other than used clothing in an amount or value of \$250 or more.
22 Contributions shall be valued as follows:

23 (A) Stocks and bonds contributed shall be valued at the stock market
24 price on the date of transfer;

25 (B) personal property items contributed shall be valued at the lesser
26 of the item’s fair market value or cost to the donor and may be inclusive
27 of costs incurred in making the contribution. Such value shall not include
28 sales tax;

29 (C) contributions of real estate are allowable for credit only when
30 title of such real estate is in fee simple absolute and is clear of any en-
31 cumbrances; and

32 (D) the amount of credit allowable shall be based upon the lesser of
33 two current independent appraisals conducted by state licensed
34 appraisers;

35 ~~(3)~~ (3) “*department*” means *the department of commerce;*

36 ~~(4)~~ (4) “*entrepreneur*” means *an individual creating a new business,*
37 *service or product;*

38 (5) “*region*” means multi-county areas as defined by the secretary of
39 commerce;

40 ~~(6)~~ (6) “*regional business development fund*” means *an authorized*
41 *and audited fund that is created by taxpayer contributions, interest in-*
42 *come and investment income and is managed by the regional foundation*
43 *board of directors for the purposes of economic and leadership develop-*

1 *ment in the region;*

2 (7) “regional foundation” means any organization in Kansas that dem-
3 onstrates capacity to provide economic development services to regions
4 as defined by this act, and: (A) Has obtained a ruling from the internal
5 revenue service of the United States department of treasury that such
6 organization is exempt from income taxation under the provisions of sec-
7 tion 501(c)(3) or 501(c)(6) of the federal internal revenue code;

8 (B) has been designated as a certified development company by the
9 United States small business administration;

10 (C) has been designated as an economic development district by the
11 United States department of commerce’s economic development
12 administration;

13 (D) has been organized as a regional planning commission under
14 K.S.A. 12-744 et seq., and amendments thereto, or its predecessor, K.S.A.
15 12-716 et seq., and amendments thereto; or

16 (E) is incorporated in the state of Kansas as a nonstock, nonprofit
17 corporation;

18 ~~(4)~~ (8) *“regional leadership development” means training and edu-*
19 *cation that enable a region to develop community leadership that*
20 *strengthens the economic and social environment in that region;*

21 (9) “rural community” means any city having a population of fewer
22 than 50,000 or except as otherwise provided, any unincorporated area.
23 Unincorporated areas within any county having a population of more than
24 100,000 are not eligible; ~~and~~

25 ~~—(5)~~ (10) *“secretary” means the secretary of the department of*
26 *commerce;*

27 (11) *“small business” means an independently owned and operated*
28 *business having fewer than 100 full-time equivalent employees;*

29 (12) “taxpayer” means: (A) Any business entity authorized to do busi-
30 ness in the state of Kansas which is subject to the state income tax im-
31 posed by the provisions of the Kansas income tax act;

32 (B) any individual subject to the state income tax imposed by the
33 provisions of the Kansas income tax act;

34 (C) any national banking association, state bank, trust company or
35 savings and loan association paying an annual tax on its net income pur-
36 suant to article 11 of chapter 79 of the Kansas Statutes Annotated; or

37 (D) any insurance company paying the premium tax and privilege
38 fees imposed pursuant to K.S.A. 40-252, and amendments thereto; *and*

39 (13) *“technology improvements” means a project that results in the*
40 *ability of the region to enhance service in areas, including broadband*
41 *access, web site creation, wireless internet services, computer program-*
42 *ming, computer servers, computer networks, computer databases, elec-*
43 *tronic training modules, electronic media and any other technological*

1 *areas deemed eligible by the secretary.*

2 (b) For taxable years commencing after December 31, 2004, any tax-
3 payer contributing to a regional foundation designated by the secretary
4 of commerce, shall be allowed a credit, as provided in this act, against
5 the tax imposed by the Kansas income tax act, the tax on net income of
6 national banking associations, state banks, trust companies or savings and
7 loan associations imposed under article 11 of chapter 79 of the Kansas
8 Statutes Annotated, or the premium tax or privilege fees imposed pur-
9 suant to K.S.A. 40-252, and amendments thereto, if the proposal of the
10 regional foundation is approved pursuant to this act.

11 (c) (1) On December 31, 2007, June 30, 2008, and each June 30
12 thereafter, each regional foundation shall transfer 5% of funds raised in
13 the previous fiscal year from the marketing of the rural business tax cred-
14 its to be credited to the enterprise facilitation fund created in K.S.A. 2007
15 Supp. 74-50,155, and amendments thereto.

16 (2) The secretary of commerce may adopt rules and regulations for
17 the disbursement of regional foundation funds to the enterprise facilita-
18 tion fund.

19 (d) (1) The secretary of commerce is hereby authorized to adopt
20 rules and regulations for establishing criteria for evaluating proposals to
21 designate regional foundations as defined by this act with the assistance
22 of the secretary of revenue.

23 (2) The proposal shall set forth the program to be conducted, why
24 the program is needed, the estimated amount to be invested in the pro-
25 gram, composition of the board that shall be making investment decisions,
26 policies stating the organization shall offer services to all counties in that
27 region and the plans for implementing the program.

28 (3) The secretary of commerce shall select regional foundations pur-
29 suant to rules and regulations adopted pursuant to subsection ~~(c)(1)~~ (d)(1)
30 to use the sale of credits to establish regional business development funds.

31 (4) The total amount of credits allowed under this act shall not exceed
32 \$2,500,000 for fiscal year 2005; \$2,500,000 for fiscal year 2006; and
33 \$2,000,000 per year for fiscal years 2007 through, and including, 2012.
34 Each region as defined by this act shall receive an equal share of this
35 allocation.

36 (5) Any credits not sold by such regional foundations shall be re-
37 claimed by the secretary from such region and redistributed to other
38 regions that sold all credits previously issued.

39 (6) The secretary shall annually review and approve or disapprove the
40 proposal of each designated regional foundation for continued eligibility
41 for tax credits. The department of commerce retains that right to reclaim
42 credits in such cases the regional foundation closes or there is demon-
43 strated violation of the organization's policies. Changes to the investment

1 policies of each regional foundation are subject to approval of the
2 secretary.

3 (e) *Each regional foundation shall administer a regional business de-*
4 *velopment fund. The sums generated by contributions to each regional*
5 *business development fund are intended to be distributed to qualified*
6 *entrepreneurs for the purposes of economic and leadership development*
7 *in the region. Such sums shall be allocated by each regional foundation*
8 *as follows:*

9 (1) *Not less than 60% of such funds may be allocated for job creation*
10 *or retention;*

11 (2) *not more than 10% of such funds ~~may~~ shall be allocated for ad-*
12 *ministrative costs in overseeing particular projects; and*

13 (3) *the remaining funds may be allocated towards other eligible ac-*
14 *tivities as provided in subsection (f) in a manner that fits the region's*
15 *priorities and needs.*

16 (f) *Funds in the regional business development funds may be utilized*
17 *by the regional foundation for one or more of the following eligible*
18 *activities:*

19 (1) *Business start-ups;*

20 (2) *business expansion;*

21 (3) *business retention;*

22 (4) *business support services;*

23 (5) *regional leadership development;*

24 (6) *technology improvements; and*

25 (7) *administrative services.*

26 (g) *All interest generated on idle funds administered by the regional*
27 *foundation shall be used by the foundation's board in accordance with*
28 *subsections (e) and (f).*

29 (h) *Any regional foundation may increase or decrease the allocation*
30 *percentages set forth in subsection (e) only upon approval of such ad-*
31 *justments by the secretary.*

32 ~~(i)~~ (i) (1) The amount of credit allowed pursuant to this act, shall
33 not exceed 75% of the total amount contributed during the taxable year
34 by the taxpayer to a regional foundation approved pursuant to this act.

35 (2) If the amount of the credit allowed by this act, exceeds the tax-
36 payer's income tax liability imposed under the Kansas income tax act,
37 such excess amount shall be refunded to the taxpayer.

38 ~~(j)~~ (j) The provisions of this act shall be applicable to all taxable years
39 beginning after December 31, 2004.

40 Sec. 2. K.S.A. 2007 Supp. 74-50,154 is hereby repealed.

41 Sec. 3. This act shall take effect and be in force from and after its
42 publication in the statute book.