

SENATE BILL No. 399

By Committee on Federal and State Affairs

2-8

1 AN ACT establishing the Kansas business workers and community
2 partnership act.

3
4 *Be it enacted by the Legislature of the State of Kansas:*

5 Section 1. As used in this act:

6 (a) "Alien" means an alien unlawfully present in the United States, as
7 defined by the immigration laws of the United States, 8 U.S.C. § 1101 *et*
8 *seq.*

9 (b) "Program participant" means an alien who meets the requirements
10 of section 4, and amendments thereto.

11 (c) "Secretary" means the secretary of labor.

12 Sec. 2. The goals of this act include, but are not limited to:

13 (a) Facilitating information sharing between the state and the federal
14 government, the state work force, the business community and local
15 governments to address critical labor shortages in the state of Kansas;

16 (b) reducing costs related to detention, incarceration and deportation
17 of undocumented aliens;

18 (c) increasing the safety of Kansas residents by ensuring that
19 undocumented persons undergo background security screening;

20 (d) providing a lawful work force for Kansas industries seeking to
21 grow the economy; and

22 (e) assisting local governments and community organizations seeking
23 to aid immigrant assimilation into Kansas.

24 Sec. 3. (a) The secretary shall develop and administer a program to
25 support noncriminal undocumented aliens who, in lieu of detention or
26 deportation by the federal government, seek authorization from the federal
27 government to work for certain eligible businesses in the state of Kansas
28 and provide assistance to such persons or such persons' dependents
29 through partnership arrangements with eligible community or faith-based
30 organizations.

31 (b) The secretary shall certify industries as having significant worker
32 shortages that threaten local economies. Such certification shall be based
33 upon data including, but not limited to, local or regional unemployment
34 rates; local or regional industry economic conditions; or local or regional
35 economic conditions.

36 (c) Upon a certification that an industry has significant worker

1 shortages, the secretary may accept applications from employers meeting
2 the requirements of section 6, and amendments thereto, to participate in a
3 program for the employment of eligible program participants in such
4 industry.

5 (d) The secretary shall report annually to the Kansas legislature on
6 the progress and extent of the program.

7 Sec. 4. (a) Any alien may seek to enroll in the program established
8 pursuant to this act if the alien:

9 (1) Has completed fingerprinting and biometrics for background
10 checks and has paid the associated fees;

11 (2) has not committed two or more misdemeanors, excluding traffic
12 offenses, or a felony;

13 (3) has presented: (A) Proof of presence within Kansas prior to July
14 1, 2007; or (B) proof of relocation to Kansas with an employer that has
15 relocated to Kansas and proof of presence within the United States for
16 more than five years;

17 (4) agrees to employment with a business certified pursuant to this
18 act, conditioned on securing employment authorization from the federal
19 department of homeland security; and

20 (5) agrees to work toward English language proficiency.

21 (b) A program participant who meets the eligibility requirements of
22 subsection (a) may apply, if otherwise eligible, for a Kansas driver's
23 license or Kansas nondriver's identification card. Eligibility will be for a
24 term consistent with the work authorization granted by the federal
25 department of homeland security and may be renewed subject to the terms
26 of the work authorization.

27 (c) (1) If a program participant is terminated from the program
28 participant's employment for cause, the program participant shall not be
29 eligible for unemployment benefits. If the program participant is not able
30 to secure other employment with an eligible employer within 90 days after
31 termination, the program participant shall become ineligible for the
32 program. The secretary may not support an application for any renewal of
33 deferred action or other discretionary relief or an employment
34 authorization document for any program participant who fails to comply
35 with the terms of the program.

36 (2) Program participants who are employed by an employer that has
37 been disqualified from the program pursuant to section 6, and amendments
38 thereto, immediately must seek and, as soon as practicable, obtain
39 employment with another employer eligible to participate in the program
40 established pursuant to this act.

41 Sec. 5. The secretary may support an application of a program
42 participant's alien spouse or a program participant's dependent child under
43 the age of 21 years to the department of homeland security for deferred

1 action or other discretionary relief if the applicant spouse or child has met
2 the requirements of subsections (a)(1), (2) and (5) of section 4, and
3 amendments thereto.

4 Sec. 6. (a) Any employer that meets the following criteria is eligible
5 to participate in the program established pursuant to this act:

6 (1) The employer's primary business is involved in an industry that
7 has been certified by the secretary as experiencing significant labor
8 shortages;

9 (2) payment of an annual registration fee as follows:

10 (A) For employers employing 1 to 10 program participants, \$1,000
11 plus \$200 per program participant;

12 (B) for employers employing 11 to 50 program participants, \$2,500
13 plus \$200 per program participant; and

14 (C) for employers employing more than 50 program participants,
15 \$5,000 plus \$200 per program participant;

16 (3) the employer meets the requirements of the federal fair labor
17 standards act;

18 (4) the employer has completed training and certification by the
19 secretary;

20 (5) the employer agrees to make and completes reports as required by
21 the secretary;

22 (6) the employer complies with all federal and state employment
23 taxes; and

24 (7) the employer provides all benefits to participants as provided to
25 other employees.

26 (b) (1) The secretary may approve employers meeting eligibility
27 requirements to employ program participants.

28 (2) The secretary may disqualify employers who fail to maintain the
29 eligibility requirements.

30 (3) Employers disqualified from the program by the secretary shall be
31 required to pay to the secretary a civil penalty in the amount of \$500 per
32 program participant employee or \$5,000, whichever is greater, recoverable
33 after notice and opportunity for hearing in accordance with the Kansas
34 administrative procedure act.

35 (4) Employers may voluntarily leave the program at any time with 60
36 days' prior notice to the secretary and to program participants.

37 (c) Employers meeting the eligibility requirements shall not be
38 criminally prosecuted by the state of Kansas for actions arising out of the
39 past employment of a person who participates in the program.

40 Sec. 7. The secretary shall adopt rules and regulations for the
41 development and administration of a program for the registration and
42 approval of community or faith-based organizations to receive grant funds
43 and provide any of the following activities:

- 1 (a) Education and outreach regarding program participation;
- 2 (b) assisting undocumented aliens who are program participants in
- 3 the completion of documentation;
- 4 (c) teaching of English language programs; and
- 5 (d) reporting of program outcomes to the state.

6 Sec. 8. The secretary is hereby authorized to promulgate and adopt
7 rules and regulations for the administration of this act, including, but not
8 limited to: (a) Establishment of documentation necessary for determination
9 of program eligibility; (b) tracking of social security or other identification
10 documentation to assure employer and program participant program
11 compliance; (c) terms and conditions of program compliance; (d) training,
12 reporting and compliance requirements; and (e) any procedural or other
13 matters related to the administration of the program established pursuant to
14 this act.

15 Sec. 9. The secretary may cooperate or enter into formal agreements
16 with any other agency or state, with any local governmental entity of this
17 state or any other state, with the federal government or with any other
18 person for the purpose of carrying out the provisions of this act.

19 Sec. 10. For the purposes of carrying out the provisions of this act,
20 the secretary or the secretary's agent may enter any premises at any
21 reasonable time, in order to inspect records or interview employers,
22 employees or program participants to assure compliance with the
23 provisions of this act and rules and regulations adopted pursuant to this
24 act.

25 Sec. 11. (a) There is hereby established in the state treasury the
26 Kansas business workers and community partnership fund, which shall be
27 administered by the secretary. All expenditures from the fund shall be for
28 payment of costs of the program established pursuant to this act and
29 distribution of grant funds to community or faith-based groups providing
30 activities described in section 7, and amendments thereto.

31 (b) All expenditures from the fund shall be made in accordance with
32 appropriation acts upon warrants of the director of accounts and reports
33 issued pursuant to vouchers approved by the secretary or the secretary's
34 designee.

35 (c) All moneys received by the secretary from fees or penalties
36 pursuant to this act shall be deposited in the state treasury in accordance
37 with the provisions of K.S.A. 75-4215, and amendments thereto, and shall
38 be credited to the fund.

39 Sec. 12. Sections 1 through 12, and amendments thereto, shall be
40 known as the Kansas business workers and community partnership act.

41 Sec. 13. This act shall take effect and be in force from and after
42 January 1, 2013, and its publication in the statute book.