

MINUTES OF THE SENATE COMMERCE COMMITTEE

The meeting was called to order by Chairperson Karin Brownlee at 8:15 A.M. on March 15, 2005 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Susan Kannarr, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Helen Pedigo, Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees appearing before the committee:

Scott Frank, Post Audit

Others attending:

See attached list.

Chairperson Brownlee opened the meeting by stating the Committee would start with working HB 2265 with several amendments to consider. She introduced Senator Jordan to explain his amendment on HB 2265. (Attachment 1) Senator Jordan stated last year the Committee passed the "Downtown Redevelopment Bill" and the language in the conference committee report did not reflect the intention of last year's bill. It had just been discovered so they thought this would be a good bill to put the correct language in. What the intent of the Downtown Redevelopment Bill was if someone bought a building in a downtown rural area and the renovation added to the value of the building we wanted to rebate the difference between the value before and after and phase it back in on their tax rules after 10 years. This balloon corrects that language. Upon completion of Senator Jordan's explanation there was discussion regarding if it would be retroactive. Matt Jordan, Department of Commerce, joined the discussion and stated that a year either way of when local government applied for and received approval to use this tool, they could get the rebate.

Senator Jordan made a motion to accept the balloon on the Downtown Redevelopment Act with the removal of the new Section 6. Seconded by Senator Schodorf.

A discussion ensued regarding whether Senator Jordan thought there would be controversy in the House with this balloon added. Senator Jordan stated he did not expect any controversy.

Chairperson Brownlee called for a vote. Motion carried.

Chairperson Brownlee stated she had an amendment to this bill. (Attachment 2) An additional page to address the issue of "do we know if the company is meeting the requirements" so this would be an annual reporting to the Governor, this Committee, the House Committee and the Joint Committee on Innovia meeting the stipulations. This bill does have a clawback provision.

Senator Wysong opened the discussion on the Brownlee Amendment referring to page 3 line 41. The discussion continued regarding the language Great Britain. Some of the Committee members had concerns with telling another country what they had to do with one of their companies in order to qualify for the tax incentives. There was discussion on changing the bill back to it's original language on page 3 line 41. Senator Emler suggested inserting, on page 3 line 40, after the word "closure" the phrase "or tooling". The discussion continued on whether the Committee should have language forcing the closing of a plant in Great Britain as a condition before they could receive any incentives.

Senator Emler made a motion to accept amendment to add "or tooling" to page 3 line 41. Senator Schodorf seconded. Motion carried with Senator Reitz and Senator Wysong voting no.

Senator Reitz explained his vote by stating he feels they don't have the right to tell the company to close a plant in Great Britain. Chairperson Brownlee joined the discussion and stating we had to make sure Innovia does what they say they will do. She explained the company had discussed whether to close either the plant in Great Britain or the plant in Topeka. That is why the language needed to be in this bill. Kathie Sparks

CONTINUATION SHEET

MINUTES OF THE Senate Commerce Committee at 8:15 A.M. on March 15, 2005 in Room 123-S of the Capitol.

stated there was a plant in Japan that they do not own and that is why the House changed the language to read Great Britain. The Committee moved on to discuss the rest of the amendment offered by Chairperson Brownlee. Upon completion of the discussion, Senator Wysong made a motion to accept section 4 minus (e) of the Brownlee amendment. Senator Jordan seconded. Motion carried.

Chairperson Brownlee recognized Helen Pedigo, Revisor of Statutes, who stated Senator Hensley had offered an amendment on this bill. (Attachment 3) Chairperson Brownlee stated it appeared to be clean-up language only. Chairperson Brownlee called on Secretary Wagnon, Department of Revenue and she stated the amendment was a cleanup on the clawback and she would appreciate its acceptance After a short discussion, Senator Reitz moved to adopt the amendment offered by Senator Hensley. Senator Kelly seconded. Motion carried.

Senator Schodorf made a motion to move HB 2265 out as amended favorably for passage. Senator Kelly seconded. Motion carried.

Chairperson Brownlee introduced Scott Frank, Post Audit to give his presentation on the "Performance Audit Report" for Wyandotte County dated February 2005. Mr. Frank stated the report he was going to review contained the findings, conclusions, and recommendations from Post Audit's completed performance audit on Wyandotte County: Reviewing the Use of STAR Bond moneys associated with the Kansas Speedway and the Village West Tourism District.

Mr. Frank reviewed each section of the Performance Audit Report having discussions with the Committee following each section. This report is available from the Legislative Division of Post Audit

Due to a lack of time, Chairperson Brownlee asked Mr. Frank if he would be available to finish his review tomorrow at 8: 15 a.m. on the theater project.

The meeting was adjourned at 9:33 p.m. with next meeting scheduled for tomorrow, March 16, 2005 at 8:15 a.m. in room 123S.

HOUSE BILL No. 2265

Proposed Amendment
Senator Jordan
March 15, 2005

By Committee on Economic Development

2-2

economic development

10 AN ACT concerning ~~commerce~~ concerning qualified manufacturers of
11 cellulose film.

; Kansas downtown redevelopment act; amending K.S.A. 2004 Supp. 12-17,122 and 12-17,125 and repealing the existing sections

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

14 Section 1. The provisions of this act shall be known as and may be
15 cited as the "qualified manufacturer act."

16 Sec. 2. For the purposes of this act:

17 (a) "Agreement" means an agreement entered into between the qual-
18 ified manufacturer and the secretary for benefits under this act.

19 (b) "Gross compensation" means gross wages and benefits paid to or
20 on behalf of employees receiving wages.

21 (c) "Qualified manufacturer" means a person, corporation, partner-
22 ship or other entity engaged in the production of cellulose film in Shaw-
23 nee county, Kansas, or proposing to engage in the production of cellulose
24 film in Shawnee county, Kansas, that satisfies conditions imposed by the
25 secretary which shall include, among other conditions, that the person,
26 corporation, partnership or other entity meet the requirements of sub-
27 section (a) of section 3, and amendments thereto.

28 (d) "Secretary" means the secretary of commerce.

29 Sec. 3. (a) A qualified manufacturer may be eligible for a period of
30 three and no more than four calendar years to receive 100% of the rev-
31 enue, not to exceed \$1,000,000 in the aggregate, realized from withhold-
32 ing upon Kansas wages paid by the qualified manufacturer pursuant to
33 K.S.A. 79-3294 et seq., and amendments thereto, if the qualified manu-
34 facturer complies with the following requirements:

35 (1) Has paid or agrees to pay at least \$10,000,000 in existing annual
36 gross compensation paid to jobs located in Kansas;

37 (2) has an average wage and salary of at least \$50,000 plus benefits;

38 (3) has currently at least \$26,000,000 total investment in Kansas;

39 (4) employs at least 190 full-time equivalent employees in Kansas as
40 defined in K.S.A. 74-50,114, and amendments thereto; and

41 (5) enters into an agreement with the secretary in which in return
42 for the benefits authorized pursuant to this act, the qualified manufactur-
43 er agrees to maintain at least 190 full-time equivalent employees as

Senate Commerce
3-15-05

Attachment 1-1

1 defined in K.S.A. 74-50,114, and amendments thereto, in Kansas for a
2 period of five years or such longer period as the qualified manufacturer
3 and the secretary may agree.

4 (b) A qualified manufacturer may apply to the secretary to enter into
5 an agreement for benefits under this act. The application shall include
6 (1) evidence that the applicant is a qualified manufacturer as defined in
7 section 2, and amendments thereto, and (2) that the qualified manufac-
8 turer intends to employ at least 190 full-time equivalent employees for
9 at least a period of five years commencing from the date of the agreement.

10 (c) Upon receipt of an application described in subsection (b), if the
11 secretary finds that the application is from a qualified manufacturer, the
12 secretary may enter into an agreement with the qualified manufacturer
13 for benefits under this act. The agreement shall commit the secretary to
14 request that for a period of three years, but in no event longer than four
15 years at the discretion of the secretary, from the date of the executed
16 agreement, and in an amount not to exceed \$1,000,000, that the with-
17 holding upon Kansas wages paid by the qualified manufacturer shall be
18 credited to the special qualified manufacturer fund created in subsection

19 (d) and shall be transferred by the state treasurer to the qualified man-
20 ufacturer. The agreement shall set forth the terms and conditions under
21 which the secretary shall direct the state treasurer to transfer revenues
22 in the special qualified manufacturer fund to the qualified manufacturer.
23 The agreement shall specifically provide that if at any time revenue from
24 the withholding upon Kansas wages paid by the qualified manufacturer
25 is insufficient to make a payment prescribed by the agreement, that the
26 qualified manufacturer is not entitled to the payment. In the event the
27 qualified manufacturer terminates, cancels or reduces the scope of the
28 terms and conditions approved by the secretary in the agreement, the
29 agreement shall provide that the secretary can terminate the agreement,
30 and the qualified manufacturer shall not be entitled to further distribu-
31 tions from the special qualified manufacturer fund.

32 (d) The state treasurer shall credit all revenue collected or received
33 from withholding upon Kansas wages paid by a taxpayer which is a qual-
34 ified manufacturer, as certified by the secretary, to the special qualified
35 manufacturer fund, which fund is hereby created in the custody of the
36 state treasurer, but which fund shall not be a part of the state treasury or
37 the state general fund. Distributions from the fund shall not be subject
38 to appropriation. On or before the 10th day of each month, the director
39 of accounts and reports shall transfer from the state general fund to the
40 special qualified manufacturer fund interest earnings based on: (1) The
41 average daily balance of moneys in the special qualified manufacturer
42 fund for the preceding month; and (2) the net earnings rate of the pooled
43 money investment portfolio for the preceding month. The provisions of

1-3

1 this section shall expire when all revenues that, pursuant to the agreement
2 are to be paid to the qualified manufacturer, have been distributed. Mon-
3 eys credited to the special qualified manufacturer fund in accordance with
4 the foregoing provisions shall be distributed to or on the order of the
5 secretary. The state treasurer shall make such distributions on such dates
6 as mutually agreed to by the secretary and the state treasurer, serving as
7 paying agent pursuant to the terms of the agreement. The total of all
8 distributions under this section shall not exceed \$1,000,000 or the amount
9 realized from 100% of the withholding upon Kansas wages paid by the
10 qualified manufacturer for a period of three years or four, as may be
11 approved by the secretary, from the date of the agreement whichever
12 amount is less.

13 (e) Income tax refunds and balances due resulting from withholding
14 upon Kansas wages paid by the qualified manufacturer pursuant to K.S.A.
15 79-3294 et seq. and amendments thereto, with respect to the eligible
16 project, shall be reconciled on at least an annual basis by a method defined
17 in the agreement described in subsection (c).

18 (f) The qualified manufacturer shall not be allowed to participate in
19 the IMPACT act or program pursuant to K.S.A. 74-50,102 et seq., and
20 amendments thereto. The secretary may include provisions in the agree-
21 ment described in subsection (c) to limit or reduce the amount of eligible
22 credits related to the provisions of this act, including, but not limited to,
23 those allowed pursuant to K.S.A. 79-32,160a or 79-32,182b, and amend-
24 ments thereto. Nothing in this subsection shall be construed to prohibit
25 the qualified manufacturer from receiving credits allowed by law for any
26 investment not related to the provisions of this act.

27 (g) The agreement which shall be entered into between the qualified
28 manufacturer and the secretary before any incentives may be provided
29 under this act, shall specify that should the qualified manufacturer fail to
30 maintain the employment levels set forth in the agreement, that the qual-
31 ified manufacturer shall be required to repay a proportionate amount of
32 withholding distributed to the qualified manufacturer from the special
33 qualified manufacturer fund, as may be determined by the secretary.

34 (h) Incentives awarded under this act shall not be used to provide for
35 or to increase compensation packages, rewards, bonuses, pensions, en-
36 hanced retirement, stock options, buyouts or substantial severance pay or
37 other financial benefits to any chief executive officer, chief financial of-
38 ficer or any officers of the company.

39 (i) Incentives which may be awarded under the provisions of this act,
40 may be provided only upon the occurrence of the closure of a cellulose
41 film production facility in a foreign country **Great Britain.**

42 Sec. 4. This act shall take effect and be in force from and after its
43 publication in the ~~statute book~~ **Kansas register.**

See attached for Sec. 4, 5, 6 and 7

And by renumbering the remaining section accordingly.

Sec. 4. K.S.A. 2004 Supp. 12-17,122 is hereby amended to read as follows: 12-17,122. For the purposes of this act, the following terms shall have the meanings provided herein, unless the context clearly indicates, otherwise:

(a) "Base year appraised value" means the appraised value, as determined by the county appraiser, of the real property located within the boundaries of a downtown redevelopment area for the tax year immediately preceding a twelve-month period in which an investment for improvements to the real property or trade fixtures therein, equal to or exceeding 25% of the appraised value of the real property, was made;

(b) "core commercial district" means an area of a city or unincorporated area of a county characterized by a variety of compact commercial, office, residential and public uses that make it most directly analogous to central business districts commonly identified by zoning regulations;

(c) "distressed community" means an area in which 20% or more of the population of all ages for each census tract located within the area has an income below the poverty level as reported in the most recently completed decennial census published by the U.S. bureau of the census;

(d) "downtown redevelopment area" or "redevelopment area" means an area designated by the secretary of commerce pursuant to this act for the purpose of identifying real property that is eligible to receive tax benefits as provided in K.S.A. 2004 Supp.

12-17,124, and amendments thereto;

(e) "fund" means the fund created by the governing body of a city or unincorporated area of a county to comply with the requirements of this act;

(f) "governing body" means the governing body of a city or the unincorporated area of a county;

(g) "real property taxes" means all taxes levied on an ad valorem basis upon land and the improvements thereon;

(h) "secretary" means the secretary of the department of commerce; and

(i) "tax increment" means all real property taxes assessed pursuant to K.S.A. 79-1439, and amendments thereto, to the amount of the current appraised value of the property in excess of the base year appraised value of the property located within a redevelopment area or proposed redevelopment area.

Sec. 5. K.S.A. 2004 Supp. 12-17,125 is hereby amended to read as follows: 12-17,125. Real property that has been approved for downtown redevelopment tax benefits pursuant to K.S.A. 2004 Supp. 12-17,124, and amendments thereto, shall be assessed and taxed for real property tax purposes pursuant to law in the same manner that such property would be assessed and taxed if it had not been approved for downtown redevelopment tax benefits. ~~All real-property-taxes-assessed-to-the-base-year-appraised-value~~ The tax increment generated by the improvement shall be credited to the fund created by a governing body of a city or an unincorporated area of a county for the purpose of returning all

or part of the property tax increment to the taxpayer in the form of a rebate of 100% each year in years one through five, 80% in year six, 60% in year seven, 40% in year eight and 20% in year nine. No rebate shall be paid on or after the tenth year. Upon payment of taxes by the taxpayer, the rebate must be made within 30 days after the next distribution date as specified in K.S.A. 12-1678a, and amendments thereto.

New Sec. 6. Any two or more municipalities may agree pursuant to K.S.A. 12-2901 et seq., and amendments thereto, to exercise the powers and duties authorized by the Kansas downtown redevelopment act.

Sec. 7. K.S.A. 2004 Supp. 12-17,122 and 12-17,125 are hereby repealed.

As Amended by House Committee

Session of 2005

HOUSE BILL No. 2265

By Committee on Economic Development

2-2

PROPOSED AMENDMENT

Senator Brownlee

March 14, 2005

Senate Commerce Committee

B-15-05

Attachment 2-1

10 AN ACT concerning commerce; concerning qualified manufacturers of
11 cellulose film.

12

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

14 Section 1. The provisions of this act shall be known as and may be
15 cited as the "qualified manufacturer act."

16 Sec. 2. For the purposes of this act:

17 (a) "Agreement" means an agreement entered into between the qual-
18 ified manufacturer and the secretary for benefits under this act.

19 (b) "Gross compensation" means gross wages and benefits paid to or
20 on behalf of employees receiving wages.

21 (c) "Qualified manufacturer" means a person, corporation, partner-
22 ship or other entity engaged in the production of cellulose film in Shaw-
23 nee county, Kansas, or proposing to engage in the production of cellulose
24 film in Shawnee county, Kansas, that satisfies conditions imposed by the
25 secretary which shall include, among other conditions, that the person,
26 corporation, partnership or other entity meet the requirements of sub-
27 section (a) of section 3, and amendments thereto.

28 (d) "Secretary" means the secretary of commerce.

29 Sec. 3. (a) A qualified manufacturer may be eligible for a period of
30 three and no more than four calendar years to receive 100% of the rev-
31 enue, not to exceed \$1,000,000 in the aggregate, realized from withhold-
32 ing upon Kansas wages paid by the qualified manufacturer pursuant to
33 K.S.A. 79-3294 et seq., and amendments thereto, if the qualified manu-
34 facturer complies with the following requirements:

35 (1) Has paid or agrees to pay at least \$10,000,000 in existing annual
36 gross compensation paid to jobs located in Kansas;

37 (2) has an average wage and salary of at least \$50,000 plus benefits;

38 (3) has currently at least \$26,000,000 total investment in Kansas;

39 (4) employs at least 190 full-time equivalent employees in Kansas as
40 defined in K.S.A. 74-50,114, and amendments thereto; and

41 (5) enters into an agreement with the secretary in which in return
42 for the benefits authorized pursuant to this act, the qualified manufac-
43 turer agrees to maintain at least 190 full-time equivalent employees as

1 this section shall expire when all revenues that, pursuant to the agreement
 2 are to be paid to the qualified manufacturer, have been distributed. Mon-
 3 eys credited to the special qualified manufacturer fund in accordance with
 4 the foregoing provisions shall be distributed to or on the order of the
 5 secretary. The state treasurer shall make such distributions on such dates
 6 as mutually agreed to by the secretary and the state treasurer, serving as
 7 paying agent pursuant to the terms of the agreement. The total of all
 8 distributions under this section shall not exceed \$1,000,000 or the amount
 9 realized from 100% of the withholding upon Kansas wages paid by the
 10 qualified manufacturer for a period of three years or four, as may be
 11 approved by the secretary, from the date of the agreement whichever
 12 amount is less.

13 (e) Income tax refunds and balances due resulting from withholding
 14 upon Kansas wages paid by the qualified manufacturer pursuant to K.S.A.
 15 79-3294 et seq., and amendments thereto, with respect to the eligible
 16 project, shall be reconciled on at least an annual basis by a method defined
 17 in the agreement described in subsection (c).

18 (f) The qualified manufacturer shall not be allowed to participate in
 19 the IMPACT act or program pursuant to K.S.A. 74-50.102 et seq., and
 20 amendments thereto. The secretary may include provisions in the agree-
 21 ment described in subsection (c) to limit or reduce the amount of eligible
 22 credits related to the provisions of this act, including, but not limited to,
 23 those allowed pursuant to K.S.A. 79-32,160a or 79-32,182b, and amend-
 24 ments thereto. Nothing in this subsection shall be construed to prohibit
 25 the qualified manufacturer from receiving credits allowed by law for any
 26 investment not related to the provisions of this act.

27 (g) The agreement which shall be entered into between the qualified
 28 manufacturer and the secretary before any incentives may be provided
 29 under this act, shall specify that should the qualified manufacturer fail to
 30 maintain the employment levels set forth in the agreement, that the qual-
 31 ified manufacturer shall be required to repay a proportionate amount of
 32 withholding distributed to the qualified manufacturer from the special
 33 qualified manufacturer fund, as may be determined by the secretary.

34 (h) Incentives awarded under this act shall not be used to provide for
 35 or to increase compensation packages, rewards, bonuses, pensions, en-
 36 hanced retirement, stock options, buyouts or substantial severance pay or
 37 other financial benefits to any chief executive officer, chief financial of-
 38 ficer or any officers of the company.

39 (i) Incentives which may be awarded under the provisions of this act,
 40 may be provided only upon the occurrence of the closure of a cellulose
 41 film production facility in a foreign country **Great Britain.**

42 Sec. 4. This act shall take effect and be in force from and after its
 43 publication in the statute book **Kansas register.**

Insert New Sec. 4 here and renumber the remaining section.

Senate Commerce Committee

3-15-05

Attachment 2-d

- New Sec. 4. (a) The secretary shall transmit annually to the governor, the standing committee on commerce of the senate, the standing committee on economic development of the house of representatives and the joint committee on economic development, a report, based upon information received from each qualified manufacturer for which benefits have been issued during the preceding year, describing the following: (1) The manner in which the purpose, as described in this act, has been carried out;
- (2) an estimate of jobs created and jobs preserved by cash investments made in qualified manufacturers; and
 - (3) an estimate of the multiplier effect on the Kansas economy of the cash investments made pursuant to this act.
- (b) The secretary shall conduct an annual review of the activities undertaken pursuant to this act to ensure that benefits issued pursuant to this act are issued in compliance with the provisions of this act or rules and regulations promulgated by the department with respect to this act.
- (c) Any violation of the reporting requirements set forth in this section shall be grounds for loss of designation as a qualified manufacturer under this section.
- (d) If the secretary determines that a qualified manufacturer is not in substantial compliance with the requirements of this act, the secretary, by written notice, shall inform the officers of the qualified manufacturer that such qualified manufacturer will lose its designation as a qualified manufacturer unless such qualified manufacturer corrects the deficiencies and is once again in compliance with the requirements for designation.
- (e) Loss of designation of a qualified manufacturer shall preclude the issuance of any additional benefits provided by this act. Upon loss of the designation as a qualified manufacturer as otherwise provided under this act or by moving its operation outside Kansas within 10 years after receiving benefits under this act, such qualified manufacturer shall repay to the secretary all benefits claimed. Each qualified manufacturer that loses such designation shall enter into a repayment agreement with the secretary specifying the terms of such repayment obligation.

Sen. Hensley/ 3-8-05
Revenue Dept.

HOUSE BILL No. 2265

By Committee on Economic Development

Senate Commerce
3-15-05
Attachment 3-1

10 AN ACT concerning commerce; concerning qualified manufacturers of
11 cellulose film.
12

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

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15 cited as the "qualified manufacturer act."

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18 ified manufacturer and the secretary for benefits under this act.

19 (b) "Gross compensation" means gross wages and benefits paid to or
20 on behalf of employees receiving wages.

21 (c) "Qualified manufacturer" means a person, corporation, partner-
22 ship or other entity engaged in the production of cellulose film in Shaw-
23 nee county, Kansas, or proposing to engage in the production of cellulose
24 film in Shawnee county, Kansas, that satisfies conditions imposed by the
25 secretary which shall include, among other conditions, that the person,
26 corporation, partnership or other entity meet the requirements of sub-
27 section (a) of section 3, and amendments thereto.

28 (d) "Secretary" means the secretary of commerce.

29 Sec. 3. (a) A qualified manufacturer may be eligible for a period of
30 three and no more than four calendar years to receive 100% of the rev-
31 enue not to exceed \$1,000,000 in the aggregate, realized from withhold-
32 ing upon Kansas wages paid by the qualified manufacturer pursuant to
33 K.S.A. 79-3294 et seq., and amendments thereto, if the qualified manu-
34 facturer complies with the following requirements:

an amount

from the special qualified manufacturer fund

35 (1) Has paid or agrees to pay at least \$10,000,000 in existing annual
36 gross compensation paid to jobs located in Kansas;

37 (2) has an average wage and salary of at least \$50,000 plus benefits;

38 (3) has currently at least \$26,000,000 total investment in Kansas;

39 (4) employs at least 190 full-time equivalent employees in Kansas as
40 defined in K.S.A. 74-50,114, and amendments thereto; and

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41 (5) enters into an agreement with the secretary in which in return
42 for the benefits authorized pursuant to this act, the qualified manufac-
43 turer agrees to maintain at least 190 full-time equivalent employees as

3-2

defined in K.S.A. 74-50,114, and amendments thereto, in Kansas for a period of five years or such longer period as the qualified manufacturer and the secretary may agree.

(b) A qualified manufacturer may apply to the secretary to enter into an agreement for benefits under this act. The application shall include (1) evidence that the applicant is a qualified manufacturer as defined in section 2, and amendments thereto, and (2) that the qualified manufacturer intends to employ at least 190 full-time equivalent employees for [at least] a period of five years commencing from the date of the agreement.

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(c) Upon receipt of an application described in subsection (b), if the secretary finds that the application is from a qualified manufacturer, the secretary may enter into an agreement with the qualified manufacturer for benefits under this act. The agreement shall commit the secretary to request that for a period of three years, but in no event longer than four years at the discretion of the secretary, from the date of the executed agreement, [and in] an amount not to exceed \$1,000,000, [that the withholding upon Kansas wages paid by the qualified manufacturer shall be credited to] the special qualified manufacturer fund created in subsection (d) and shall be transferred by the state treasurer to the qualified manufacturer. The agreement shall set forth the terms and conditions under which the secretary shall direct the state treasurer to transfer revenues in the special qualified manufacturer fund to the qualified manufacturer.

from

the balance of the fund

The agreement shall specifically provide that if at any time [revenue from the withholding upon Kansas wages paid by the qualified manufacturer] is insufficient to make a payment prescribed by the agreement, that the qualified manufacturer [is not] entitled to the payment. In the event the qualified manufacturer [terminates, cancels or reduces the scope of the terms and conditions approved by the secretary in] the agreement, the agreement shall provide that the secretary can terminate the agreement, and the qualified manufacturer shall not be entitled to further distributions from the special qualified manufacturer fund.

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fails to comply with the terms and conditions set forth in

(d) The state treasurer shall credit all revenue collected or received from withholding upon Kansas wages paid by a taxpayer which is a qualified manufacturer, as certified by the secretary, to the special qualified manufacturer fund, which fund is hereby created in the custody of the state treasurer, but which fund shall not be a part of the state treasury or the state general fund. Distributions from the fund shall not be subject to appropriation. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the special qualified manufacturer fund interest earnings based on: (1) The average daily balance of moneys in the special qualified manufacturer fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month. The provisions of

3-3

this section shall expire when all revenues that, pursuant to the agreement are to be paid to the qualified manufacturer, have been distributed. Mon-
3 eys credited to the special qualified manufacturer fund in accordance with
4 the foregoing provisions shall be distributed to or on the order of the
5 secretary. The state treasurer shall make such distributions on such dates
6 as mutually agreed to by the secretary and the state treasurer, serving as
7 paying agent pursuant to the terms of the agreement. The total of all
8 distributions under this section shall not exceed \$1,000,000 or the amount
9 realized from 100% of the withholding upon Kansas wages paid by the
10 qualified manufacturer for a period of three years or four, as may be
11 approved by the secretary, from the date of the agreement whichever
12 amount is less.

(e) Income tax refunds and balances due resulting from withholding
14 upon Kansas wages paid by the qualified manufacturer pursuant to K.S.A.
15 79-3294 et seq., and amendments thereto, [with respect to the eligible
16 project] shall be reconciled on at least an annual basis by a method defined
17 in the agreement described in subsection (c).

(f) [The] qualified manufacturer shall not be allowed to participate in
19 the IMPACT act or program pursuant to K.S.A. 74-50,102 et seq., and
20 amendments thereto. The secretary may include provisions in the agree-
21 ment described in subsection (c) to limit or reduce the amount of eligible
22 credits related to the provisions of this act, including, but not limited to,
23 those allowed pursuant to K.S.A. 79-32,160a or 79-32,182b, and amend-
24 ments thereto. Nothing in this subsection shall be construed to prohibit
25 the qualified manufacturer from receiving credits allowed by law for any
26 investment not related to the provisions of this act.

(g) The agreement [which shall be entered into] between the qualified
28 manufacturer and the secretary [before any incentives] may be provided
29 under this act, shall specify that should the qualified manufacturer fail to
30 maintain the employment levels set forth in the agreement, that the qual-
31 ified manufacturer shall be required to repay a proportionate amount of
32 withholding distributed to the qualified manufacturer from the special
33 qualified manufacturer fund, as may be determined by the secretary.

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35 or to increase compensation packages, rewards, bonuses, pensions, en-
36 hanced retirement, stock options, buyouts or substantial severance pay or
37 other financial benefits to any chief executive officer, chief financial of-
38 ficer or any officers of the company.

(i) [Incentives which may be awarded under] the provisions of this act,
40 may be provided only upon the occurrence of the closure of a cellulose
41 film production facility in a foreign country **Great Britain**,
42 as determined by the secretary.

43 Sec. 4. This act shall take effect and be in force from and after its
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