

2023 Kansas Statutes

74-8136. Secretary of commerce authorized to issue tax credits; reporting required; annual review by secretary of commerce; loss of designation, notice, repayment obligations; disallowance; rules and regulations. (a) Tax credits for qualified Kansas businesses are a limited resource of the state for which the secretary is designated as the administrator. The purpose of such tax credits is to facilitate the availability of equity investment in businesses in the early stages of commercial development and to assist in the creation and expansion of Kansas businesses that are job and wealth creating enterprises. To achieve this purpose and to optimize the use of the limited resources of the state, the secretary is authorized to issue tax credits to qualified investors in qualified Kansas businesses. Such tax credits shall be awarded to those qualified Kansas businesses that, as determined by the secretary, are most likely to provide the greatest economic benefit to the state. The secretary may issue whole or partial tax credits based on an assessment of the qualified businesses. The secretary may consider numerous factors in such assessment, including, but not limited to, the quality and experience of the management team, the size of the estimated market opportunity, the risk from current or future competition, the ability to defend intellectual property, the quality and utility of the business model and the quality and reasonableness of financial projections for the business.

(b) Each qualified Kansas business for which tax credits have been issued pursuant to this act shall report to the department on an annual basis, the following: (1) The name, address and taxpayer identification number of each angel investor who has made cash investment in the qualified securities of a qualified Kansas business and has received tax credits for this investment during the preceding year and all other preceding years; (2) the amounts of these cash investments by each angel investor and a description of the qualified securities issued in consideration of such cash investments; (3) the name, address and taxpayer identification number of each investor to which tax credits issued pursuant to this act have been transferred by the original angel investor; and (4) any additional information as the secretary may require pursuant to this act.

(c) The secretary shall transmit annually to the governor, the standing committee on commerce of the senate and the standing committee on commerce, labor and economic development of the house of representatives a report, based upon information received from each qualified Kansas business for which tax credits 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) the total cash investments made for the purchase of qualified securities of qualified Kansas businesses during the preceding year and cumulatively since the inception of this act; (3) an estimate of jobs created and jobs preserved by cash investments made in qualified securities of qualified Kansas businesses; and (4) an estimate of the multiplier effect on the Kansas economy of the cash investments made pursuant to this act.

(d) The secretary shall provide the information specified in subsection (c) to the department of revenue on an annual basis. The secretary shall conduct an annual review of the activities undertaken pursuant to this act to ensure that tax credits 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.

(e) Any violation of the reporting requirements set forth in this section shall be grounds for undesignation of a qualified Kansas business under this section.

(f) If the secretary determines that a business is not in substantial compliance with the requirements of this act to maintain its designation, the secretary, by written notice, shall inform the officers of the qualified Kansas business and the business that such business will lose designation as a qualified Kansas business in 120 days from the date of mailing of the notice unless such business corrects the deficiencies and is once again in compliance with the requirements for designation.

(g) At the end of the 120-day period, if the qualified Kansas business is still not in substantial compliance, the secretary shall send a notice of loss of designation to the business, the secretary of the department of revenue and to all known investors in the

business. Loss of designation of a qualified Kansas business shall preclude the issuance of any additional tax credits with respect to this business and the secretary shall not approve the application of such business as a qualified Kansas business. Upon loss of the designation as a qualified Kansas business or if a bioscience business loses its designation as a qualified Kansas business under this act by moving its operations outside Kansas within 10 years after receiving financial assistance under this act or a qualified Kansas business that is not a bioscience business loses its designation as a qualified Kansas business under this act by moving its operations outside Kansas within five years after receiving financial assistance under this act, such business shall repay such financial assistance to the department, in an amount determined by the secretary. Each qualified Kansas business that loses such designation shall enter into a repayment agreement with the secretary specifying the terms of such repayment obligation.

(h) Angel investors who lawfully make an investment in a qualified Kansas business shall not have tax credits disallowed solely due to the business losing its designation as a qualified Kansas business under this act.

(i) The secretary shall adopt rules and regulations in accordance with the rules and regulations filing act necessary to implement the provisions of K.S.A. 74-8131 through 74-8136, and amendments thereto.

History: L. 2004, ch. 112, § 79; L. 2005, ch. 134, § 6; L. 2011, ch. 104, § 31; L. 2012, ch. 65, § 19; L. 2013, ch. 134, § 15; L. 2021, ch. 42, § 3; July 1.