

**SENATE BILL No. 340**

By Committee on Commerce

1-30

---

1 AN ACT enacting the Kansas reinvestment act.

2

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

4 Section 1. Sections 1 through 14, and amendments thereto, may be  
5 cited as the Kansas reinvestment act. The purpose of this act is to promote  
6 job creation and economic development by small businesses in  
7 impoverished areas of this state.

8 Sec. 2. As used in this act, the following words and phrases shall  
9 have the meanings ascribed to them herein:

10 (a) "Business" means any commercial enterprise which does not  
11 engage in the activities listed in section 11, and amendments thereto.

12 (b) "Business renovation" means improving the existing physical  
13 facilities of a small business, new small business or exempt business.

14 (c) "Deputy director" means the director of the Kansas reinvestment  
15 act.

16 (d) "Exempt business" means a business exempted from the  
17 requirements for eligibility of this act by the deputy director pursuant to  
18 the provisions of section 10, and amendments thereto.

19 (e) "Fraudulent activity" means submitting false documentation to the  
20 state of Kansas, deputy director or deputy director's designee, or a third  
21 party contractor for the deputy director for purposes of securing an award  
22 pursuant to this act, including, but not limited to: (1) Over-estimating  
23 goods or services for the intended purpose of receiving extra funds; or (2)  
24 using awarded funds for purposes or in a manner contrary to the provisions  
25 of this act.

26 (f) "Impoverished area" means a zip code area in which the median  
27 income does not exceed 70% of the current state median income in the  
28 current year according to the United States census bureau or official  
29 Kansas data.

30 (g) "New small business" means small businesses which have been in  
31 existence more than 12 months and less than 18 months, are current with  
32 the filing of tax returns and remittance of taxes due to the state of Kansas  
33 and the federal government and have a business plan approved by a federal  
34 agency, state agency or a financial institution acceptable to the deputy  
35 director.

36 (h) "Nonprofit organization" means any organization which is

1 organized and operated for: (1) The relief of poverty, distress or other  
2 condition of public concern within this state; (2) financially supporting the  
3 activities of a charitable organization as defined in paragraph (1); or (3)  
4 conferring direct benefits on the community at large; and of which no part  
5 of the net earnings inures to the benefit of any private shareholder or  
6 individual member of such organization and which has been exempted  
7 from the payment of federal income taxes as provided by sections 501(c)  
8 (3), 501(c)(4), 501(c)(5), 501(c)(6) or 501(c)(7) of the federal internal  
9 revenue code of 1986, as amended, or determined to be organized and  
10 operated as a bona fide nonprofit organization by the deputy director.

11 (i) "Religious organization" means any corporation, trust or  
12 organization incorporated or established for religious purposes, or  
13 established for charitable, hospital or educational purposes and engaged in  
14 effectuating one or more of such purposes, that is affiliated with, operated  
15 by or supervised or controlled by a corporation, trust or organization  
16 incorporated or established for religious purposes and which has been  
17 exempted from the payment of federal income taxes as provided by section  
18 501(c)(3) or 501(d) of the federal internal revenue code of 1986, as  
19 amended.

20 (j) "Small business" means sole proprietorships, limited liability  
21 corporations or corporations which gross less than \$2,000,000 in revenue  
22 annually and employ 50 or fewer employees.

23 Sec. 3. (a) There is hereby established the Kansas reinvestment  
24 program, which shall be organized as a division within the department of  
25 revenue and shall be administered by the deputy director with the  
26 assistance of the department of revenue.

27 (b) The deputy director shall be appointed by the governor, subject to  
28 confirmation by the senate as provided by K.S.A. 75-4315b, and  
29 amendments thereto. The deputy director shall be part of the unclassified  
30 service and shall serve at the pleasure of the governor. The deputy  
31 director's salary shall be equivalent to the salary of a division head within  
32 the department of revenue.

33 (c) The deputy director may contract with third parties, as otherwise  
34 provided by law and permitted by this act, to carry out the provisions of  
35 this act. The deputy director shall, in the discretion of the deputy director,  
36 in furtherance of the purposes of this act and in accordance with the  
37 provisions of this act, award funds to small businesses, new small  
38 businesses, exempt businesses, religious organizations and nonprofit  
39 organizations from the Kansas reinvestment fund. The deputy director may  
40 hire additional personnel who shall be in the unclassified service to assist  
41 with the administration of and to carry out the functions of the Kansas  
42 reinvestment program. The deputy director is granted authority to enter  
43 into agreements for monetary awards as permitted by this act beginning

1 January 1, 2015, and ending December 31, 2019.

2 Sec. 4. (a) There is hereby created in the state treasury the Kansas  
3 reinvestment act fund. The deputy director, in consultation with the  
4 secretary of revenue, shall administer the fund. All expenditures from the  
5 fund shall be for the purpose of promoting job creation and economic  
6 development through the Kansas reinvestment program in accordance with  
7 the provisions of this act and shall be made in accordance with  
8 appropriation acts upon warrants of the director of accounts and reports  
9 issued pursuant to vouchers approved by the deputy director or the deputy  
10 director's designee.

11 (b) Beginning in fiscal year 2015 and ending in fiscal year 2019, 3%  
12 of state tax general fund revenues, but not less than \$30,000,000, shall be  
13 allocated each fiscal year to fund the Kansas reinvestment fund.

14 (c) Up to 10% of the amount allocated to the Kansas reinvestment  
15 fund each fiscal year may be used for administration of the fund by the  
16 Kansas reinvestment program. Funds allocated for administration shall be  
17 used for the salaries of the deputy director and all other necessary  
18 personnel and equipment to administer the Kansas reinvestment program.

19 Sec. 5. (a) A small business or new small business shall meet all  
20 requirements as defined in section 6, and amendments thereto, to be  
21 eligible to receive funds as provided by this act. All funds allocated to  
22 small businesses, new small businesses or exempt businesses shall be  
23 subject to the restrictions of section 11, and amendments thereto.

24 (b) No small business shall receive awards totaling more than  
25 \$100,000.

26 (c) No new small business shall receive awards totaling more than  
27 \$50,000.

28 (d) No exempt business shall receive awards totaling more than  
29 \$75,000.

30 Sec. 6. (a) To be eligible for funding under the provisions of this act,  
31 a small business or new small business:

32 (1) Must be a Kansas business located within and incorporated in  
33 Kansas;

34 (2) may not be a franchise of a national business with franchisees or  
35 business locations in other states;

36 (3) must not be delinquent in filing any return with, or paying any tax  
37 due to, the state of Kansas or the federal government;

38 (4) must be located in or relocating to an impoverished area; and

39 (5) must submit to the deputy director a business plan that has been  
40 accepted or approved by a federal agency, state agency or financial  
41 institution acceptable to the deputy director.

42 (b) Religious or nonprofit organizations must:

43 (1) Be in compliance with all required filings with the internal

1 revenue service for the current and prior year; and

2 (2) be in compliance with all required filings with the state of Kansas  
3 for the current and prior year.

4 Sec. 7. Small businesses, new small businesses and exempt  
5 businesses shall be eligible for awards for the following purposes:

6 (a) Business renovation;

7 (b) acquisition of business equipment;

8 (c) new structures attached to or on the same property of an existing  
9 structure of the business;

10 (d) up to \$25,000 for relocation to an impoverished area; and

11 (e) up to \$20,000 for business marketing purposes.

12 Sec. 8. (a) An eligible small business, new small business, exempt  
13 business, religious organization or nonprofit organization meeting the  
14 requirements of this act may apply to the deputy director to enter into an  
15 agreement for an award pursuant to this act. The application shall be  
16 submitted on a form and in a manner prescribed by the deputy director,  
17 and shall include evidence that the applicant is eligible for an award as  
18 permitted by the requirements of this act, or a basis for an exemption as  
19 permitted by this act. Upon receipt of an application, if the deputy director  
20 finds that the application is from an eligible applicant and meets the  
21 requirements of this act, the deputy director may enter into an agreement  
22 with the eligible applicant for an award pursuant to this act. The agreement  
23 between the eligible applicant and the deputy director shall be entered into  
24 before any grant may be awarded as permitted by this act, and shall  
25 specify that should the eligible applicant fail to comply with the terms set  
26 forth in the agreement, the deputy director may terminate the agreement  
27 and the grant funds awarded shall be returned to the Kansas reinvestment  
28 act fund.

29 (b) All agreements entered into by the deputy director to award funds  
30 pursuant to this act shall contain terms providing that any fraudulent  
31 activity shall constitute a breach of the agreement and result in the  
32 mandatory return of the full amount of awarded funds within 120 days. All  
33 agreements shall contain terms prohibiting the sale of a business that  
34 receives an award of funds pursuant to this act for a period of five years  
35 from the date the funds are awarded unless the award amount is paid back  
36 by the business prior to or as a requirement of the sale.

37 Sec. 9. (a) Nonprofit organizations shall be eligible for awards  
38 pursuant to the Kansas reinvestment act if the business employs no more  
39 than 25 employees and annually receives gross revenues of \$500,000 or  
40 less.

41 (b) Religious organizations shall be eligible for awards pursuant to  
42 the Kansas reinvestment act if the religious organization employs no more  
43 than 25 employees and annually receives gross revenues of \$500,000 or

1 less.

2 Sec. 10. Applications for exemption from the eligibility limitations  
3 set forth in this act shall be considered by the deputy director and approval  
4 or disapproval shall be given within 30 days of submission of a complete  
5 application. In considering such applications, the deputy director shall:

6 (a) Consider the direct economic impact on the impoverished area  
7 from making an award;

8 (b) consider tangential benefits to other businesses in the  
9 impoverished area from making an award; and

10 (c) consider the commitment by the applicant business to the  
11 community and impoverished area.

12 Sec. 11. Funds awarded under the provisions of this act shall not be  
13 used for:

14 (a) Salaries of employees;

15 (b) personal vehicles or vehicles that will be used for less than 90%  
16 business use; or

17 (c) payments for debt incurred for goods or services received prior to  
18 receipt of Kansas reinvestment act funds.

19 Sec. 12. Businesses that engage in any of the following business  
20 activities shall not be eligible for awards pursuant to this act and no  
21 exemption shall be permitted by the deputy director for businesses that  
22 engage in:

23 (a) Activities of a sexually oriented business, as defined at K.S.A. 12-  
24 770, and amendments thereto;

25 (b) sale at retail of alcoholic liquors, as defined at K.S.A. 41-102, and  
26 amendments thereto;

27 (c) sales of cigarettes, pipe tobacco or pipes;

28 (d) loans utilizing title to vehicles as collateral; or

29 (e) check cashing services if offered by a business that is not a state  
30 or national bank, savings and loan association, savings bank or credit  
31 union.

32 Sec. 13. In the event any business awarded funds pursuant to this act  
33 files for bankruptcy, the amount of such award shall be due to the Kansas  
34 reinvestment act fund and exempt from any and all claims of any creditor,  
35 except the department of revenue.

36 Sec. 14. The deputy director and department of revenue may adopt  
37 rules and regulations to implement and administer the provisions of this  
38 act.

39 Sec. 15. This act shall take effect and be in force from and after its  
40 publication in the statute book.