

House Committee on Commerce, Labor and Economic Development

Apex Balloon of 2/3 with Amendments

Office of Revisor of Statutes

*{As Amended by Senate Committee of the Whole}*

*As Amended by Senate Committee*

*Session of 2022*

**SENATE BILL No. 347**

By Committee on Commerce

1-18

1 AN ACT concerning economic development; enacting the attracting  
 2 powerful economic expansion act; relating to tax and other incentives  
 3 for projects in specified industries or for a national corporate  
 4 headquarters with specified capital investment requirements of at least  
 5 \$1,000,000,000; providing for a refundable *an* income, privilege and  
 6 premium tax credit for a portion of such investment; reimbursement of  
 7 certain payroll costs and training and education costs; retention of  
 8 certain payroll withholding taxes; sales tax exemption for project  
 9 construction and a property tax incentive for certain projects located in  
 10 a foreign trade zone; *adjusting the income tax on corporations by*  
 11 *reducing the rate by 0.5% after any fiscal year that incentives under*  
 12 *this act are received by a business*; establishing the attracting powerful  
 13 economic expansion payroll incentive fund and the attracting powerful  
 14 economic expansion new employee training and education fund;  
 15 amending *K.S.A. 79-32,110 and* K.S.A. 2021 Supp. 79-3606 and  
 16 repealing the existing ~~section~~ *sections*.

Title revisions necessary

17  
18 *Be it enacted by the Legislature of the State of Kansas:*

19 New Section 1. (a) This act shall be known and may be cited as the  
20 attracting powerful economic expansion act.

21 (b) For purposes of the attracting powerful economic expansion act:  
22 (1) "Act" means the attracting powerful economic expansion act,  
23 sections 1 through ~~11~~ *12*, and amendments thereto.

citation revision necessary

24 (2) "Applicant" means a legal entity seeking to certify as a qualified  
25 firm for the economic development benefits pursuant to this act.

26 (3) "Commence investment" means to begin to invest, with action  
27 being directly connected to documentation describing the project  
28 previously submitted to the department.

29 (4) "Commencement of commercial operations" means the date, as  
30 determined by the secretary, that the qualified business facility is first  
31 available for use by the qualified firm, or first capable of being used by the  
32 qualified firm, in the revenue producing enterprise in which the qualified  
33 firm intends to use the qualified business facility.

34 (5) "Commitment to invest" means one or both of the following:

Changes to internal section or subsection references will be necessary

1 (A) The qualified firm relocates assets that it already owns to Kansas  
2 from an out-of-state location; or

3 (B) the qualified firm enters into a written agreement that provides  
4 either party with legally enforceable remedies if the agreement is  
5 breached.

6 ~~(5)(6)~~ "Department" means the Kansas department of commerce.

7 ~~(6)(7) {"Foreign trade zone" means the same as provided in the  
8 foreign-trade zones act of 1934, 19 U.S.C. 81a et seq.~~

Strike definition of "Foreign trade zone" and renumber accordingly

9 ~~(8) }~~"Headquarters" means a qualified business facility that meets the  
10 following conditions:

11 (A) The main activity at the qualified business facility is providing  
12 direction, management, or administrative support for the operation of  
13 multiple company-owned worksites or facilities in which the applicant  
14 company has an ownership interest greater than 50%; and

15 (B) the qualified business facility is capable of being geographically  
16 located anywhere.

17 ~~(7)(8)(9)~~ "New employee" means a qualified business facility  
18 employee who is newly employed by the qualified firm or qualified  
19 supplier in the qualified firm or qualified supplier's business operating in  
20 Kansas during the taxable year for which benefits are sought. Qualified  
21 business facility employees performing functions directly related to a  
22 relocating, expanding, or new business facility, office, department or other  
23 operation shall be considered "new employees."

24 ~~(8)(9)(10)~~ "On-the-job training" means training situations during  
25 which a product or service that can be sold or used in internal operations is  
26 generated.

27 ~~(9)(10)(11)~~ "Qualified business facility" means a facility as defined  
28 in subparagraph (C) that satisfies the requirements of subparagraphs (A)  
29 and (B):

or qualified supplier

30 (A) Such facility is for use by the qualified firm in the operation of a  
31 revenue producing enterprise, as defined in this section. Such facility shall  
32 not be considered a "qualified business facility" in the hands of the  
33 qualified firm if the qualified firm's only activity with respect to such  
34 facility is to lease it to another person or persons. If the qualified firm  
35 employs only a portion of such facility in the operation of a revenue  
36 producing enterprise, and leases another portion of such facility to another  
37 person or persons or does not otherwise use such other portions in the  
38 operation of a revenue producing enterprise, the portion employed by the  
39 qualified firm in the operation of a revenue producing enterprise shall be  
40 considered a "qualified business facility," if the requirements of  
41 subparagraph (B) are satisfied.

or qualified  
supplier's

42 (B) If such facility was acquired or leased by the qualified firm from  
43 another person or persons, the facility was not used, either immediately

1 prior to the transfer of title to the qualified firm, or to the commencement  
2 of the term of the lease to the qualified firm, by any other person or  
3 persons in the operation of a revenue producing enterprise that is the same  
4 or substantially the same as the revenue producing enterprise continued by  
5 the qualified firm at the facility.

6 (C) "Facility" means any factory, mill, plant, refinery, warehouse,  
7 building or complex of buildings located within the state, including the  
8 land on which such facility is located and all machinery, equipment and  
9 other real and tangible personal property located at or within such facility  
10 used in connection with the operation of such facility. "Building" means  
11 only structures within which individuals are customarily employed or that  
12 are customarily used to house machinery, equipment or other property.

13 ~~(10)(H)(12)~~ (A) "Qualified business facility employee" means ~~a~~  
14 ~~person employed in Kansas by a qualified firm in the operation of a~~  
15 ~~qualified business facility or by a qualified supplier in the qualified~~  
16 ~~supplier's business operating in Kansas during the taxable year for which~~  
17 ~~the benefits allowed by this act are claimed. Such person shall be deemed~~  
18 ~~to be so employed if such person performs duties in Kansas in connection~~  
19 ~~with the operation of the qualified business facility by a qualified firm or~~  
20 ~~the business operating in Kansas of the qualified supplier on a:~~

- 21 (i) ~~Regular, full-time basis;~~
- 22 (ii) ~~part-time basis, provided such person is customarily performing~~  
23 ~~such duties at least 20 hours per week throughout the taxable year; or~~
- 24 (iii) ~~seasonal basis, provided such person performs such duties for~~  
25 ~~substantially all of the season customary for the position in which such~~  
26 ~~person is employed.~~

27 (B) ~~"Qualified business facility employee" does not include an~~  
28 ~~independent contractor.~~

29 ~~(H)(12)(13)~~ "Qualified business facility investment" or "qualified  
30 investment" means the value of the real and tangible personal property,  
31 except inventory or property held for sale to customers in the ordinary  
32 course of the qualified firm's business, that constitutes the qualified  
33 business facility, or that is used by the qualified firm in the operation of the  
34 qualified business facility, including such property used for administrative  
35 or managerial functions, during the taxable years for which the credit  
36 allowed by sections 2 and 3, and amendments thereto, is claimed. The  
37 value of such property during such taxable year shall be:

- 38 (A) Such property's original cost if owned by the qualified firm, or
- 39 (B) eight times the net annual rental rate, if leased by the qualified  
40 firm. The net annual rental rate shall be the annual rental rate paid by the  
41 qualified firm less any annual rental rate received by the qualified firm  
42 from subrentals. The "qualified business facility investment" shall be  
43 determined by dividing by 12 the sum of the total value of such property

Lines 6-12 stricken in error have been reinserted.

In line 13, strike "a"; strike all in lines 14 through 28 and insert:  
an individual employed by a qualified firm or a qualified supplier at a qualified business facility project site, employed full-time and scheduled to work for an average minimum of 30 hours per week, employed for at least three consecutive months on the last day of the period covered by a Kansas department of labor quarterly wage report & unemployment tax return. "Qualified business facility employee" does not include an employee at a qualified business facility project site who has not been employed for three consecutive months.

Above box modified to replace reference to CNS100 with "Kansas department of labor quarterly wage report and unemployment tax return."

or qualified supplier's

or qualified supplier

1 on the last business day of each calendar month of the taxable year.  
 2 Notwithstanding the provisions of this paragraph, for the purpose of  
 3 computing the credit allowed by section 3, and amendments thereto, in the  
 4 case of a "qualified business facility investment" in a qualified business  
 5 facility that existed and was operated by the qualified firm or a related  
 6 taxpayer prior to the investment, the amount of the qualified firm's  
 7 investment shall be computed as follows: Such investment amount shall be  
 8 reduced by the average amount, computed as provided in this paragraph,  
 9 of the investment of the qualified firm or a related taxpayer in the facility  
 10 for the taxable year preceding the taxable year in which the "qualified  
 11 business facility investment" was made in the facility.

or qualified supplier

12 ~~(12)(13)(14)~~ (A) "Qualified firm" means a for-profit business  
 13 establishment, subject to state income, sales or property taxes, that is:

- 14 (i) Engaged in one or more of the following industries, as defined by  
 15 the secretary of commerce:
  - 16 (a) Advanced manufacturing;
  - 17 (b) aerospace;
  - 18 (c) distribution, logistics and transportation;
  - 19 (d) food and agriculture; or
  - 20 (e) professional and technical services; or
- 21 (ii) engaged in any industry or revenue-producing activity if seeking  
 22 benefits with respect to a qualified business facility that is the national  
 23 corporate headquarters of the for-profit business establishment.

24 (B) Notwithstanding clauses (i) and (ii), "qualified firm" does not  
 25 include a business establishment engaged in mining, swine production,  
 26 ranching or gaming.

27 ~~(13)(14)(15)~~ "Qualified supplier" means any business that:

- 28 ~~(A) Is located in Kansas;~~
- 29 ~~(B) is a supplier of components, sub-assemblies, chemicals or other~~  
 30 ~~process-related tangible goods;~~
- 31 ~~(C) is owned by an individual, any partnership, association, limited~~  
 32 ~~liability corporation or corporation domiciled in Kansas, or any~~  
 33 ~~corporation, even if a wholly owned subsidiary of a foreign corporation;~~  
 34 ~~and~~

35 ~~(D) does business primarily in Kansas or does substantially all of~~  
 36 ~~such business production in Kansas *is a supplier of components, sub-*~~  
 37 ~~*assemblies, chemicals or -other process-related tangible goods* and that~~  
 38 ~~*is owned by:*~~

, is located in Kansas

39 ~~(A) An individual, any partnership, association, limited liability~~  
 40 ~~corporation or corporation domiciled in Kansas; or~~

41 ~~(B) any business, including any business owned by an individual,~~  
 42 ~~any partnership, association, limited liability corporation or corporation,~~  
 43 ~~even if the business is a wholly owned subsidiary of a foreign~~

the qualified supplier

1 *corporation, that operates in the state of Kansas for the purpose of*  
2 *supplying a qualified firm}.*

3 ~~(14)(15)(16)}~~ "Revenue producing enterprise" means an enterprise  
4 that creates revenue subject to potential tax liability in this state.

5 ~~(15)(16)(17)}~~ "Secretary" means the secretary of commerce.

6 ~~(16)(17)(18)}~~ (A) "Total payroll cost" means the payroll amount  
7 defined by the Kansas department of labor as total wages on the quarterly  
8 wage report and unemployment tax return. For a qualified business  
9 facility, "total payroll cost" during the appropriate measurement period  
10 may be combined with any pretax earnings in which an employee has  
11 elected to direct to a:

- 12 (i) Flexible-spending plan;
- 13 (ii) deferred compensation plan; or
- 14 (iii) retirement plan that includes earnings the employee would  
15 otherwise have received in the form of taxable wages had it not been for  
16 the voluntary deferral.

17 (B) "Total payroll cost" does not include company-paid costs for  
18 health insurance, dental insurance and any other employee benefits that are  
19 not reported to the Kansas department of labor on the employer's quarterly  
20 wage report.

and unemployment tax return

21 ~~(17)(18)(19)}~~ "Training and education eligible expense" means the  
22 amount actually paid for training and education of the group of employees,  
23 or portion thereof, and from which the qualified firm or qualified supplier  
24 expects to derive increased productivity or quality.

25 (A) "Training and education eligible expense" includes instructor  
26 salaries, curriculum planning and development, travel, materials and  
27 supplies, textbooks, manuals, minor training equipment, certain training  
28 facility costs and any other expenditure that is eligible under the Kansas  
29 industrial training or the Kansas industrial retraining programs.

30 (B) "Training and education eligible expense" may include, subject to  
31 maximum limits determined by the secretary:

- 32 (i) Wages of employees during eligible training;
- 33 (ii) employee instructors' salaries; and
- 34 (iii) training-related travel expenses, with a maximum meals  
35 allowance of \$120 per day and lodging costs of \$300 per night.

36 (C) "Training and education eligible expense" does not include:

- 37 (i) Compensation paid to an employee trainee who is receiving on-  
38 the-job training;
- 39 (ii) compensation paid to an employee during self-training, except for  
40 time in which the employee is involved in activities related to an approved  
41 computerized course of study;
- 42 (iii) bonus pay received as compensation related to the company's  
43 financial performance or the employee's job performance, or both;

1 (iv) overtime pay, unless the employee is being paid at an overtime  
2 rate while participating in eligible training;

3 (v) operations manuals and reference manuals, except that  
4 training-specific manuals may be allowable; and

5 (vi) training and education costs covered by monies or grants  
6 obtained from state, federal or other government-sponsored workforce  
7 training programs.

8 New Sec. 2. (a) There is hereby established the attracting powerful  
9 economic expansion program to be administered by the secretary of  
10 commerce. The purpose of the attracting powerful economic expansion  
11 program is to attract large capital investments by businesses engaged in  
12 specified industries in new business facilities and operations in Kansas, or  
13 large capital investments in new national headquarters in Kansas by any  
14 business, and to encourage the development of a Kansas-based supply  
15 chain for such large enterprises.

16 (b) A qualified firm that makes a qualified business investment of at  
17 least \$1,000,000,000 in a qualified business facility pursuant to the  
18 requirements of this act may be eligible for the following incentives as  
19 approved by the secretary:

20 (1) The investment tax credit pursuant to section 3, and amendments  
21 thereto;

22 (2) reimbursement of a percentage of total payroll, pursuant to  
23 sections 5 and 6, and amendments thereto;

24 (3) reimbursement of ~~any~~ eligible employee training and education  
25 expense pursuant to sections 7 and 8, and amendments thereto;

a percentage of

and

26 ~~(4) a partial real property tax exemption for qualified business~~  
27 ~~facilities that are manufacturing facilities or headquarters located in~~  
28 ~~foreign trade zones pursuant to section 9, and amendments thereto; and~~

29 ~~(5) a sales tax exemption for construction costs of the qualified~~  
30 ~~business facility pursuant to K.S.A. 79-3606, and amendments thereto, and~~  
31 ~~section 10, and amendments thereto.~~

32 (c) To be eligible to receive an incentive listed in subsection (b), a  
33 qualified firm shall meet the requirements of this act, including any  
34 requirements or provisions specific to each such incentive, and any rules  
35 and regulations of the secretary pursuant to this act and shall:

36 (1) Submit an application to the secretary in the form and manner  
37 prescribed by the secretary and including all information as required by the  
38 secretary;

39 (2) if requested by the secretary, prior to making a commitment to  
40 invest in a qualified business facility, submit a certificate of intent to invest  
41 in the qualified business facility to the secretary in the form and manner  
42 required by the secretary, including, if requested by the secretary, a date  
43 investment will commence;

1 (3) commit to a qualified business investment of at least  
2 \$1,000,000,000 in the qualified business facility to be completed within  
3 five years of the commitment to invest on such date specified in the  
4 agreement pursuant to paragraph (5);

5 (4) complete the project and commence commercial operations within  
6 five years of either the commitment to invest or the date of the agreement  
7 with the secretary made pursuant to this section, as designated by the  
8 secretary and on such date as specified in the agreement pursuant to  
9 paragraph (5);

10 (5) if the application is approved by the secretary, enter into a binding  
11 agreement with the secretary with such terms and conditions as required  
12 by the secretary and including the commitments required by this act. The  
13 agreement shall be entered into before any benefits may be provided under  
14 this act;

15 (6) obtain and submit a bond to the secretary if required as follows:  
16 The secretary shall determine a minimum investment grade rating  
17 requirement for each project of a qualified firm seeking benefits under this  
18 act. In determining the minimum investment grade rating, the secretary  
19 shall consider the aspects of the qualified firm and the qualified business  
20 facility or project and shall consult ratings from three nationally  
21 recognized rating agencies selected by the secretary that provide  
22 investment grade ratings. A qualifying firm or qualifying business facility  
23 that does not meet the minimum investment grade rating determined by the  
24 secretary shall obtain and submit a bond in an amount, as determined by  
25 the secretary, of the costs associated with the primary construction of the  
26 building or buildings of the qualified business facility to a degree of  
27 completion specified by the secretary. The bond shall be paid to the state  
28 if, in the judgment of the secretary, the qualified business facility has not  
29 been constructed to the degree specified; and

30 (7) commit to repayment ~~{, at the direction of the secretary of~~  
31 ~~commerce,}~~ of the amount of all ~~{unearned}~~ benefits received under this  
32 act exceeding payment of the bond submitted pursuant to paragraph (6), in  
33 the event that the ~~requirements of this act, rules and regulations of the~~  
34 ~~secretary pursuant to this act or the terms and conditions of the agreement~~  
35 ~~pursuant to paragraph (5) are not met~~ **{qualified firm does not make a**  
36 **qualified business investment of at least \$1,000,000,000}.**

37 (d) A qualified supplier, that meets the requirements of paragraphs (1)  
38 and (2), as determined by the secretary, may be eligible for the incentives  
39 listed in subsection (b)(1), (3), ~~(4)~~ or (5) or a partial retention of payroll  
40 withholding taxes for employees as provided by section 4, and  
41 amendments thereto, upon designation by a qualified firm as eligible for  
42 incentives pursuant to paragraph (1). No benefits under sections 4 or 7  
43 shall be awarded to the qualified supplier until the commencement of such

. The agreement shall be subject to the approval of the state finance council as provided in subsection (e). The secretary shall only enter into an agreement with one qualified firm per calendar year. The secretary shall only enter into a maximum of one agreement per calendar year within the period beginning on the effective date of this act and ending on such date in the year 2024 or on May 1, 2024, whichever occurs first.  
The secretary shall not enter into an agreement with more than one qualified firm in calendar year 2022 and shall not enter into an agreement with more than one qualified firm in calendar year 2023.  
The secretary shall not enter into an agreement with any qualified firm after December 31, 2023.

within 5 years of the date specified in the agreement pursuant to paragraph (5), or breaches the terms and conditions of such agreement

Strike lines 30-36. Replace with:

commit to repayment of any benefit or benefits received connected to or associated with a term or a condition of the agreement that has been breached as determined by the secretary, and to the forfeiture of any such earned benefits and the suspension or cessation of such future benefits for as long as the breach is not corrected. The secretary shall report any material breach of the terms and conditions of the agreement to the state finance council within 14 calendar days of the secretary first becoming aware of such breach.

Strike in line 39

1 qualified firm's operations at the qualified business facility, as determined  
 2 by the secretary. If the qualified business facility fails to commence  
 3 operations as required by subsection (c)(4), all incentives that may have  
 4 been awarded to the qualified supplier under this act shall be forfeited and  
 5 the qualified supplier shall cease to be eligible for further benefits until the  
 6 requirements of this act are met with respect to the same qualified firm that  
 7 has entered into a new agreement with the secretary or a different qualified  
 8 firm. To be eligible to receive benefits, a qualified supplier shall meet the  
 9 requirements of this act, including any requirements or provisions specific  
 10 to each such incentive, and any rules and regulations of the secretary  
 11 pursuant to this act and shall:

12 (1) Be selected by the qualified firm as a qualified supplier eligible to  
 13 receive incentives under this act and identified to the secretary of  
 14 commerce. Not more than five qualified suppliers may be selected by any  
 15 one qualified firm. Such selection shall ~~be effective for a period of five~~  
 16 ~~years or the time period that an incentive under this act has been approved~~  
 17 ~~for the qualified supplier by the secretary. The secretary may specify a~~  
 18 ~~lesser period;~~

19 (2) within each period of one year for which incentives may be  
 20 earned, beginning with the year in which the qualified supplier was  
 21 designated as eligible for benefits by the qualified firm, have made sales,  
 22 as defined by the secretary, of more than \$10,000,000 to the qualified  
 23 business facility. This requirement may be waived by the secretary upon a  
 24 showing of exceptional circumstances;

25 (3) submit an application to the secretary, in the form and manner as  
 26 designated by the secretary, and provide all information requested by the  
 27 secretary, including, but not limited to, evidence establishing sales of more  
 28 than \$10,000,000 to the qualified firm for the qualified business facility as  
 29 required by paragraph (2). The qualified firm shall submit evidence to the  
 30 secretary as requested regarding the date operations at the qualified  
 31 business facility commenced and the sales to the qualified business facility  
 32 by the qualified supplier;

33 (4) if the application is approved by the secretary, enter into a binding  
 34 agreement with the secretary with such terms and conditions as required  
 35 by the secretary and the commitments required by this act, including, but  
 36 not limited to, providing the secretary with evidence showing the amount  
 37 of sales to the qualified firm for each year that an incentive is claimed. The  
 38 agreement shall be entered into before any benefits may be provided under  
 39 this act and

40 (5) ~~if the qualified supplier meets the requirements for the investment~~  
 41 ~~tax credit pursuant to section 3, and amendments thereto, commit to~~  
 42 ~~repayment of the amount of all benefits received under this act in the event~~  
 43 ~~the requirements of this act, any rules and regulations of the secretary~~

New strikes in lines 15 through 18

In line 18, before the semicolon, insert:  
 not be changed unless a qualified supplier selected by  
 the qualified firm breaches the terms of an agreement  
 under this act and is disqualified by the secretary. In  
 such case, the qualified firm may select a replacement  
 qualified supplier;

~~. The agreement shall be subject to the approval of the state  
 finance council, as provided in subsection (e)~~

new strikes in lines 40, 41, and 43

qualified ~~firm~~ ~~supplier~~ breaches

entered into

new strikes in lines 1 through 3

1 ~~pursuant to this act or~~ the terms and conditions of the agreement pursuant  
2 to paragraph (4) ~~are not met and the qualified supplier is disallowed in~~  
3 ~~whole or in part by the secretary.~~

4 (e) A qualified firm or qualified supplier that is approved by the  
5 secretary for incentives under this act shall not be eligible for participation  
6 in ~~{any other economic development program or fund administered by~~  
7 ~~the secretary of commerce, including, but not limited to, the STAR bond~~  
8 ~~program,}~~ the promoting employment across Kansas program, the high  
9 performance incentive program or the Kansas industrial training or Kansas  
10 industrial retraining programs.

11 (f) As a condition of receiving an incentive under this act, a qualified  
12 firm or qualified supplier shall agree to cooperate with any audit  
13 undertaken by the secretary of revenue as provided by subsection (h) and  
14 to provide the secretary of commerce:

15 (1) Information required for publication in the economic development  
16 incentive program information database pursuant to K.S.A. 2021 Supp. 74-  
17 50,226, and amendments thereto;

18 (2) information reasonably required for the secretary's report pursuant  
19 to section ~~9 II~~, and amendments thereto;

20 (3) information required by the secretary of commerce or the  
21 secretary of revenue pursuant to subsections (g) and (h); and

22 (4) reasonable access by the secretary or the secretary's agents to the  
23 qualified business facility during business hours.

24 (g) (1) The secretary shall conduct an annual review of the activities  
25 undertaken by a qualified firm or qualified supplier to ensure that the  
26 qualified firm or qualified supplier remains in good standing with the state  
27 and in compliance with the provisions of this act, any rules and regulations  
28 adopted by the secretary with respect to this act and any agreement entered  
29 into pursuant to this act and continues to meet the requirements for the  
30 benefits provided under this act. The secretary of commerce shall certify  
31 annually to the secretary of revenue that the qualified firm meets the  
32 criteria for designation as a qualified firm and is eligible for such benefits.  
33 The secretary of commerce may obtain any and all information reasonably  
34 necessary to determine such eligibility. Such information shall be  
35 confidential to the same extent as information provided to the secretary to  
36 determine eligibility pursuant to K.S.A. 74-50,131, and amendments  
37 thereto.

38 (2) Confidential financial information, any trade secret or other  
39 information that, if known, would place the qualified firm at a  
40 disadvantage in the marketplace or would significantly interfere with the  
41 purposes of this act in the judgment of the secretary that is obtained under  
42 this section shall not be subject to disclosure pursuant to K.S.A. 45-215 et  
43 seq., and amendments thereto, but shall upon request be made available to

(e) ~~Any benefits~~ Benefit provisions beyond the secretary's discretion  
provided in any agreement pursuant to the investment tax credit, section  
3(h), and amendments thereto, and the total payroll reimbursement,  
section 5(c), and amendments thereto, that ~~are outside the limited~~  
~~discretion provided the secretary for approval of such benefits~~ require the  
approval of the state finance council shall not be effective unless such  
provisions have been reviewed and ratified approved by the affirmative  
vote of the governor and by a majority vote of the legislative members of  
the state finance council prior to the finalization of an agreement by the  
secretary. This matter is hereby characterized as a matter of legislative  
delegation and subject to the guidelines prescribed in K.S.A. 75-3711c,  
and amendments thereto, except that the state finance council is expressly  
granted the authority to act on this matter at any time, including when the  
legislature is in session. The secretary of commerce or any officer or  
employee of the department of commerce shall appear before the state  
finance council to provide testimony if requested by the state finance  
council. Notwithstanding the provisions of the Kansas open meetings act,  
any review, testimony or discussion of an agreement shall not be open the  
benefit provisions requiring approval or of other aspects of a potential  
agreement may be closed to the public. A vote on ratification of an  
agreement shall be made in open session. A vote on allowing benefit offers  
beyond the secretary's discretion shall be made in open session. However,  
the details of such an offer need not be disclosed publicly. With respect to  
the state finance council, ~~the agreement, and any associated~~  
documentation or testimony including or pertaining to benefit provisions  
or a potential agreement shall be confidential and shall not be subject to  
the Kansas open records act. The fact that ~~the a potential~~ agreement or its  
terms or associated documents or testimony has been referenced or  
reviewed by the state finance council shall not make ~~the agreement or~~  
~~associated such~~ documents or testimony subject to the Kansas open  
records act with respect to any other agency. The provisions of this  
paragraph providing for confidentiality of records shall expire on July 1,  
2027, unless the legislature acts to reenact such provisions pursuant to  
K.S.A. 45-229, and amendments thereto.

1 the legislative post audit division. The provisions of this paragraph shall  
2 expire on July 1, 2027, unless the legislature reviews and reenacts such  
3 provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to  
4 July 1, 2027.

5 (h) The books and records concerning investments made, sales,  
6 employment and wages of any employees for which the qualified firm,  
7 qualified supplier or third party has retained any Kansas payroll  
8 withholding taxes or any other financial, employee or other records that  
9 pertain to eligibility for benefits or compliance with the requirements of  
10 this act shall be available for inspection by the secretary or the secretary's  
11 duly authorized agents or employees during business hours on at least 10  
12 days' prior written notice. The secretary may request the department of  
13 revenue to audit the qualified firm or qualified supplier, or a third party if  
14 applicable, for compliance with the provisions of this act.

15 (i) The secretary of revenue, in consultation with the secretary of  
16 commerce, shall develop a form that shall be completed annually by any  
17 qualified firm or qualified supplier that received any tax benefit pursuant  
18 to this section and section 3 or 4, and amendments thereto. Such form shall  
19 request, at a minimum, the information required by K.S.A. 79-32,243(a)(1)  
20 through (a)(6), and amendments thereto, and such other information as  
21 shall reasonably be required by the secretary of revenue and the secretary  
22 of commerce. The contents of the completed form shall be confidential  
23 except as provided in K.S.A. 79-3234, and amendments thereto.

24 (j) The secretary of commerce or the secretary of revenue may adopt  
25 rules and regulations for the implementation of this act.

26 New Sec. 3. (a) ~~For taxable years commencing after December 31,~~  
27 ~~2021, a qualified firm or qualified supplier that makes a qualified business~~  
28 ~~investment in a qualified business facility and meets the requirements of~~  
29 ~~section 2, and amendments thereto, and of this section shall be allowed a~~  
30 ~~credit for such investment as provided by this section against the tax~~  
31 ~~imposed by the Kansas income tax act, the premium tax or privilege fees~~  
32 ~~imposed pursuant to K.S.A. 40-252, and amendments thereto, or the~~  
33 ~~privilege tax as measured by the net income of financial institutions~~  
34 ~~imposed pursuant to article 11 of chapter 79 of the Kansas Statutes~~  
35 ~~Annotated, and amendments thereto. The credit shall be earned by the~~  
36 ~~taxpayer each taxable year based on the amount of the qualified~~  
37 ~~investment made in that taxable year as further provided in this section.~~  
38 ~~The amount of the credit that is earned each taxable year shall not be~~  
39 ~~claimed by the taxpayer in the taxable year that such credit is earned but~~  
40 ~~shall be divided into three equal portions or installments. In the case of a~~  
41 ~~qualified firm, a 1/3 portion or installment shall be claimed by the qualified~~  
42 ~~firm commencing with the taxable year after the credit is earned and a~~  
43 ~~second and third such portion or installment, respectively, shall be claimed~~

(1)

new strikes in line 27 and in lines 40 through 43

10

Unless otherwise provided in paragraph (2), a 1/10

an equivalent amount of

nine

New strikes in lines 1 through 5, 17, 18 and in lines 28 through 42.

pursuant to this subsection

1 in each of the next successive two taxable years. In the case of a qualified  
2 supplier, a 1/3 portion or installment shall first be claimed commencing  
3 with the taxable year that the qualified firm that selected the qualified  
4 supplier as eligible for benefits under this act substantially completes the  
5 qualified business facility, as determined by the secretary.

(2) (b) The amount of the tax credit earned in a taxable year shall be up  
7 to 15%, at the discretion of the secretary, of the amount of the qualified  
8 investment that is invested during such taxable year. In determining such  
9 percentage, the secretary shall consider factors including the extent of  
10 prospective new employment, the quality of new jobs and wage or salary  
11 levels, the total amount of investment, the potential for development of the  
12 industry in this state and the potential for ancillary industry development  
13 and indirect economic development. *The secretary shall also consider*  
14 *factors pursuant to subsection (d).* Such percentage shall be set forth in  
15 the agreement pursuant to section 2, and amendments thereto. The total  
16 qualified investment shall be completed within five taxable years  
17 commencing from the date of such agreement. In the case of a qualified  
18 firm, the total amount of the qualified investment shall be at least  
19 \$1,000,000,000. The qualified firm or qualified supplier shall repay to the  
20 state all tax credits received if the total qualified investment is not  
21 completed.

(c) The secretary of commerce shall set forth in the agreement  
22 pursuant to section 2, and amendments thereto, a percentage of the earned  
23 tax credit that may be refundable when claimed, as provided in subsection  
24 (a). The percentage shall be determined as provided in subsection (d).  
25 Such percentage of a tax credit installment may be refundable to such  
26 taxpayer if the amount of the installment claimed for that taxable year  
27 exceeds the taxpayer's tax liability for such year. The secretary shall set  
28 forth in the agreement any additional provisions, if necessary, regarding  
29 disposition of the earned tax credits. No earned tax credit shall be  
30 refundable after the three successive taxable years period that a portion or  
31 installment of such credit may be claimed. An installment portion of an  
32 earned tax credit that is not refunded *remaining after such installment*  
33 *has been applied against the taxpayer's tax liability* shall be carried  
34 forward for application first against the taxpayer's tax liability in the next  
35 successive tax year or for refund, as the case may be, within the three  
36 taxable year period of time that the earned tax credit may be claimed. An  
37 installment portion of an earned tax credit that has not been applied against  
38 the taxpayer's tax liability or refunded at the end of the third successive  
39 taxable year period that installment portions of such earned tax credit may  
40 be claimed shall be forfeited. *An earned tax credit, or any portion*  
41 *thereof, shall not be refundable.*

(d) The base percentage that may be refundable in each taxable year

(b)(1) For taxable years commencing after December 31, 2021, a qualified supplier that makes a qualified investment and meets the requirements of section 2, and amendments thereto, and of this section shall be allowed a credit for such investment as provided by this section against the tax imposed by the Kansas income tax act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by the net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto. The credit shall be earned by the taxpayer for up to two calendar years from the date that the qualified supplier enters into the agreement with ~~the that~~ the secretary of commerce pursuant to section 2, and amendments thereto, unless all qualifying investment that is intended by the qualified supplier is completed before this date. The credit shall be taken in the earlier taxable year that would include either:

(A) The tax year following the two-calendar year expiration from entering into the agreement with the secretary; or

(B) the tax year after the calendar year that the qualified supplier determines completion of ~~the~~ tax credit eligible qualified investment.

(2) The amount of the tax credit shall be 5% for the first \$50,000,000 in qualified investment and an additional 1% credit for each additional \$10,000,000 in qualified investment up to a maximum of \$100,000,000 in qualified investment. The amount of the credit that is earned shall be divided into ten equal portions or installments. A 1/10 portion or installment shall first be claimed commencing with the time frame set forth in paragraph (1). Such remaining portions or installments shall be claimed in each of the next successive nine taxable years.

(3) Only the first five qualified suppliers designated by a qualified firm pursuant to section 2, and amendments thereto, shall qualify for the credit unless a previously designated qualified supplier breaches terms of an agreement with either the qualified firm or department of commerce and is replaced by a succeeding qualified supplier. The qualified supplier that serves as replacement shall be eligible for the tax credit pursuant to this subsection.

(4) The qualified supplier shall repay to the state all tax credits received if the total qualified investment is not completed **as provided pursuant to section 2, and amendments thereto.**

The secretary of commerce shall set forth in the agreement entered into pursuant to section 2, and amendments thereto, a percentage of the earned tax credit that may be refundable when claimed, as provided in subsections (a) or (b). The percentage shall be determined as provided in subsection (d). Such percentage of a tax credit installment may be refundable to such taxpayer if the amount of the installment claimed for that taxable year exceeds the taxpayer's tax liability for such year. The secretary shall set forth in the agreement any additional provisions, if necessary, regarding disposition of the earned tax credits. No earned tax credit shall be refundable after the ten successive taxable year period that a portion or installment of such credit may be claimed. An installment portion of an earned tax credit that is not refunded shall be carried forward for application first against the taxpayer's tax liability in the next successive tax year or for refund, as the case may be, within the ten taxable year period. An installment portion of an earned tax credit that has not been applied against the taxpayer's tax liability or refunded at the end of the tenth successive taxable year period that installment portions of such earned tax credit may be claimed shall be forfeited.

new strike in line 16

specified in

1 of the <sup>+</sup>~~1/3~~ portion of an earned tax credit that may be claimed, as provided  
 2 by subsection (a), shall be 50%. The secretary may provide for an  
 3 additional percentage that may be refundable up to 100% of the total  
 4 eligible earned credit. ~~In addition to the factors set forth in subsection~~  
 5 ~~(b), the secretary shall base the additional determination of the~~  
 6 ~~percentage of the tax credit that may be earned by the taxpayer in a~~  
 7 ~~taxable year on the qualified firm or qualified supplier meeting specified~~  
 8 ~~goals that shall be set forth in the agreement. Such goals shall include~~  
 9 targets for the:

- 10 (1) Creation of new jobs, including new jobs for suppliers;
- 11 (2) benefit to the local, regional or state economy, including the
- 12 development of suppliers in Kansas;
- 13 (3) amount of capital investment;
- 14 (4) benefit to the development of the qualified firm's industry in
- 15 Kansas; ~~or~~
- 16 (5) other measures or goals, if any, of the secretary consistent with the
- 17 purposes of this act.

18 (e) The qualified firm ~~or qualified supplier~~ shall meet the  
 19 requirements of this act, any rules and regulations of the secretary of  
 20 commerce under this act and the terms of the agreement to receive a credit  
 21 each year that a credit is earned or an installment portion of the earned  
 22 credit is claimed. No credit shall be issued by the secretary of revenue  
 23 unless the qualified firm ~~or qualified supplier~~ has been certified by the  
 24 secretary of commerce as eligible as provided by section 2, and  
 25 amendments thereto, for each taxable year the credit is claimed. The  
 26 secretary of commerce shall provide such certifications to the secretary of  
 27 revenue.

28 (f) ~~In the event the tax credit awarded to the qualified firm or~~  
 29 ~~qualified supplier is later disallowed in whole or in part by the secretary of~~  
 30 ~~commerce or the secretary of revenue, the qualified firm or qualified~~  
 31 ~~supplier shall be liable for repayment to the state of the amount disallowed~~  
 32 ~~as provided by section 2, and amendments thereto.~~

33 (g) As a condition for claiming credits pursuant to this section, any  
 34 qualified firm or qualified supplier shall provide information pursuant to  
 35 K.S.A. 79-32,243, and amendments thereto, as part of the tax return in  
 36 which such credits are claimed. Such credits shall not be denied solely on  
 37 the basis of the contents of the information provided by the qualified firm  
 38 pursuant to K.S.A. 79-32,243, and amendments thereto.

39 New Sec. 4. (a) For taxable years commencing after December 31,  
 40 2021, a qualified supplier that meets the requirements of section 2, and  
 41 amendments thereto, and this section may be eligible to retain up to 65%,  
 42 as determined by the secretary, of the qualified supplier's Kansas payroll  
 43 withholding taxes under the Kansas withholding and declaration of

New strikes in lines 4 through 8

The base percentage that may be refundable in each taxable year of the 1/10 portion of an earned tax credit that may be claimed, as provided by subsection (a), shall be 50%. The secretary may provide for an additional percentage that may be refundable up to 100% of the total eligible earned credit. The secretary shall base the additional percentage on the qualified firm meeting specified goals that shall be set forth in the agreement.

~~; or and~~  
 (6) employment, retention and attraction of employees to remain residents of, or relocate to, Kansas

New strikes in lines 18, 23 and 28 through 31

If the qualified firm ~~or qualified supplier~~ breaches the terms and conditions of the agreement pursuant to section 2, and amendments thereto,

of the amount of the tax credits

(h) ~~Prior to finalization of an agreement pursuant to section 2, and amendments thereto,~~ the state finance council may allow for a qualified firm or qualified supplier to be allowed to take one or more additional portions or installments of the tax credit that such qualified firm or qualified supplier is entitled to pursuant to this subsection, ~~as provided in subsection 2(c), and amendments thereto.~~ No additional portions or installments of the tax credit shall be allowed in any taxable year unless the requested increase in the portions or installments have been ~~so~~ reviewed and ~~ratified~~ approved by the affirmative vote of the governor and by a majority vote of the legislative members of the state finance council. This matter is hereby characterized as a matter of legislative delegation and subject to the guidelines prescribed in K.S.A. 75-3711c, and amendments thereto, except that the state finance council is expressly granted the authority to act on this matter at any time, including when the legislature is in session. Upon an affirmative vote, the qualified firm or qualified supplier shall be allowed to take the additional portions or installments of the tax credit approved by the state finance council in the taxable year in which such portions or installments were approved, ~~as shall be set forth in the agreement pursuant to section 2, and amendments thereto.~~ The portion or installments remaining on such credit shall decrease accordingly in the event additional portions or installments are taken by a qualified firm or qualified supplier.

Reinsert  
 "or  
 qualified  
 supplier"

1 estimated tax act for the qualified supplier's employees in a taxable year  
 2 that such requirements are met. This benefit shall be available for a period  
 3 of up to 10 successive taxable years. In determining the percentage and  
 4 number of successive years, the secretary shall, at a minimum, consider  
 5 the factors set forth in sections 3(b) and (d), and amendments thereto, as  
 6 applicable. Qualified suppliers that have been selected by a qualified firm  
 7 for benefit eligibility, and that meet the sales amount requirement, as  
 8 provided by section 2, and amendments thereto, may be eligible to earn  
 9 benefits of this section prior to the qualified firm's commencement of  
 10 commercial operations at the qualified business facility. Any benefits shall  
 11 only be awarded after the qualified firm that has selected the qualified  
 12 supplier for benefit eligibility commences commercial operations.

13 (b) For purposes of the benefit under this section, a qualified supplier  
 14 may utilize or contract with a third-party employer to perform services  
 15 whereby the third-party employer:

- 16 (1) Serves as the legal employer of the qualified supplier's employees
- 17 providing services to the qualified supplier;
- 18 (2) performs such services in Kansas; and
- 19 (3) is subject to, and the qualified supplier's employees are subject to,
- 20 the Kansas withholding and declaration of estimated tax act.

21 (c) The qualified supplier shall submit an application to the secretary  
 22 of commerce in the form and manner required by the secretary and provide  
 23 all information requested by the secretary. -If approved by the secretary,  
 24 the qualified supplier shall enter into an agreement with the secretary, as  
 25 required pursuant to section 2, and amendments thereto, with such terms  
 26 and conditions as may be required by the secretary. In addition, the  
 27 agreement shall set forth the percentage of payroll withholding taxes to be  
 28 retained each year and any requirements or performance targets to receive  
 29 such benefits, as determined by the secretary. If necessary, the secretary  
 30 may also enter into an agreement with any third party described in  
 31 subsection (b), or such third party may be a party to an agreement between  
 32 the qualified supplier and the secretary.

33 (d) The agreement between the secretary of commerce and the  
 34 qualified supplier shall specify that, if the qualified supplier ~~fails to~~  
 35 ~~comply with~~ the terms and conditions set forth in the agreement ~~or fails to~~  
 36 ~~comply with the provisions set forth in this act, the secretary may~~  
 37 ~~terminate the agreement. If such agreement is terminated, the qualified~~  
 38 ~~supplier shall not be entitled to any further benefits provided under this~~  
 39 ~~section and~~ shall be required to remit to the state an amount equal to the  
 40 aggregate Kansas payroll withholding taxes retained by the qualified  
 41 supplier, or remitted to the qualified supplier by a third party, ~~pursuant to~~  
 42 ~~this act as of the date the agreement is terminated.~~

43 (e) For each year that the agreement is in effect, the secretary of

New strikes in lines 34 through 39; line 41 and 42

breaches

, the qualified supplier

as provided by section 2, and amendments thereto.

1 commerce shall certify to the secretary of revenue:

- 2 (1) That the qualified supplier is eligible to receive benefits under this
- 3 act and the terms of the agreement;
- 4 (2) the number of employees;
- 5 (3) the amount of gross wages being paid to each such employee; and
- 6 (4) the percentage of payroll withholding taxes to be retained by the
- 7 qualified supplier.

8 (f) Any qualified supplier that has entered into an agreement with the  
9 secretary of commerce pursuant to this section and section 2, and  
10 amendments thereto, and is eligible to receive benefits pursuant to this  
11 section, shall complete and submit to the department of revenue the  
12 amount of Kansas payroll withholding tax being retained by the qualified  
13 supplier in the form and manner prescribed by the director of taxation.

14 (g) The secretary of revenue and the secretary of commerce shall  
15 cooperate to develop and coordinate procedures to implement the  
16 provisions of this act.

17 New Sec. 5. (a) On and after July 1, 2022, a qualified firm that meets  
18 the requirements of section 2, and amendments thereto, and this section  
19 may be eligible for partial reimbursement of total payroll costs paid to  
20 qualified business facility employees during a taxable year, as approved by  
21 the secretary of commerce.

22 (b) As determined by the secretary a qualified firm shall be eligible  
23 for such reimbursement commencing on the date the qualified firm:

- 24 (1) Enters into an agreement with the secretary as provided in section
- 25 2, and amendments thereto;
- 26 (2) commences construction of the qualified business facility; or
- 27 (3) commences commercial operations at the qualified business
- 28 facility.

29 (c) The amount of the reimbursement each year shall be up to ~~10%~~ as  
30 allowed by the secretary, of the total payroll costs for that year, as  
31 determined by the secretary. The secretary may grant such reimbursement  
32 for up to 10 successive years. In determining the percentage and number of  
33 successive years, the secretary shall, at a minimum, consider the factors set  
34 forth in sections 3(b) and (d), and amendments thereto, as applicable.

35 (d) To be eligible for the reimbursement, the qualified firm shall  
36 submit an application to the secretary in the form and manner required by  
37 the secretary and provide all information requested by the secretary. If  
38 approved by the secretary, the qualified firm shall enter into an agreement  
39 with the secretary with such terms and conditions as required by the  
40 secretary and this section.

41 (e) No claim for a reimbursement shall be paid unless the:

- 42 (1) Qualified firm has met all requirements of section 2, and
- 43 amendments thereto, including entering into an agreement with the

7.5%

The secretary may grant an additional increase in reimbursement of such costs up to a maximum total benefit of 10% of the eligible total payroll costs for a year for up to 10 successive years, if such percentage increase and number of years is approved by the state finance council as provided in section 2, and amendments thereto subsection (d).

(d) The maximum reimbursement pursuant to this section that may be awarded in the secretary's discretion shall be 7.5% for 10 successive years. Prior to finalization of an agreement pursuant to section 2, and amendments thereto, the secretary may seek approval by the state finance council of an increased benefit percentage up to 10% for up to 10 successive years, pursuant to the provisions of section 2(e), and amendments thereto. Such approval shall require the affirmative vote of the governor and the majority of the legislative members of the state finance council. Upon such approval, the secretary may incorporate terms providing for the additional benefit as approved by the state finance council into an agreement.

1 secretary of commerce that includes a commitment to make a qualified  
2 investment in the qualified business facility of at least \$1,000,000,000  
3 within a period of five ~~taxable~~ years;

new strike in line 3 for consistency

4 (2) secretary of commerce has certified, for each year for which a  
5 reimbursement is claimed, that the qualified firm meets all requirements of  
6 this act, rules and regulations of the secretary, if any, and the agreement  
7 entered into pursuant to section 2, and amendments thereto, and this  
8 section; and

9 (3) qualified firm has filed a claim with the secretary of commerce in  
10 the form and manner required by the secretary and including evidence as  
11 required by the secretary showing the amount of total payroll costs for the  
12 year the reimbursement is claimed.

13 (f) Subject to appropriations therefor, the allowable amount of such  
14 claim as determined by the secretary shall be paid to the qualified firm  
15 from the attracting powerful economic expansion payroll incentive fund,  
16 established by section 6, and amendments thereto, upon warrants of the  
17 director of accounts and reports pursuant to vouchers approved by the  
18 secretary or by any person designated by the secretary. No interest shall be  
19 allowed on any payment made to a qualified firm pursuant to this section.

(g) If the qualified firm breaches the terms and conditions of the agreement pursuant to section 2, and amendments thereto, the reimbursements of total payroll costs pursuant to this section shall be repaid to the state as provided by section 2, and amendments thereto.

20 New Sec. 6. There is hereby established in the state treasury the  
21 attracting powerful economic expansion payroll incentive fund to be  
22 administered by the secretary of commerce. All moneys credited to the  
23 attracting powerful economic expansion payroll incentive fund shall be  
24 used by the Kansas department of commerce ~~only for purposes related to~~  
25 ~~partial reimbursement of~~ qualified firms for total payroll costs pursuant to  
26 the provisions of sections 2 and 5, and amendments thereto. All  
27 expenditures from the attracting powerful economic expansion payroll  
28 incentive fund shall be made in accordance with appropriation acts upon  
29 warrants of the director of accounts and reports issued pursuant to  
30 vouchers approved by the secretary of commerce or the secretary's  
31 designee.

to strikes in line 24

up to \$1,000,000 of

32 New Sec. 7. (a) On and after July 1, 2022, a qualified firm or a  
33 qualified supplier that meets the requirements of section 2, and  
34 amendments thereto, and this section and that has entered into an  
35 agreement with the secretary, as provided by section 2, and amendments  
36 thereto, may be eligible for reimbursement of up to 50% of training and  
37 education eligible expenses for training or education completed for new  
38 employees in each year for up to five successive years, ~~and up to an annual~~  
39 ~~amount of \$5,000,000~~, as determined by the secretary and as provided by  
40 this section. In determining the percentage, the number of successive years  
41 and the maximum annual amount, the secretary shall, at a minimum,  
42 consider the factors set forth in sections 3(b) and (d), and amendments  
43 thereto, as applicable.

New strikes in lines 38 and 39 and 41

The maximum amount of reimbursement paid to a qualified firm or qualified supplier shall be ~~\$500,000~~ \$250,000 per year. The maximum amount of reimbursement paid to a qualified firm shall be \$5,000,000 per year.

as limited by this subsection

1 (b) (1) Qualified firms shall be eligible commencing with the year in  
2 which the qualified firm enters into an agreement with the secretary, as  
3 provided in section 2, and amendments thereto, commences construction  
4 of the qualified business facility or commences commercial operations at  
5 the qualified business facility, as determined by the secretary.

6 (2) Qualified suppliers shall be eligible commencing with the year in  
7 which the qualified firm ~~has~~ selected the qualified supplier for benefit  
8 eligibility pursuant to section 2, and amendments thereto, ~~but~~ shall not be  
9 awarded such benefits until the qualified business facility commences  
10 commercial operations.

11 (c) The qualified firm or qualified supplier shall submit an application  
12 to the secretary in the form and manner required by the secretary and  
13 provide all information requested by the secretary, as provided by section  
14 2, and amendments thereto. If approved by the secretary, the qualified firm  
15 or qualified supplier shall enter into an agreement with the secretary with  
16 such terms and conditions as may be required by the secretary and  
17 commitments required by this act, as provided pursuant to section 2, and  
18 amendments thereto. The agreement shall set forth the maximum amount  
19 of the incentive that may be received ~~for each year~~ and shall require an  
20 annual showing of eligibility, including evidence showing the number of  
21 new hires and amount of eligible training and education expense, for each  
22 year the incentive is claimed.

23 (d) Subject to appropriations therefor, reimbursement in the amount  
24 approved by the secretary and pursuant to the terms of the agreement and  
25 the limitations of subsection (a) shall be made by the secretary from the  
26 attracting powerful economic expansion new employee training and  
27 education fund established in section 8, and amendments thereto, in  
28 accordance with appropriation acts upon warrants of the director of  
29 accounts and reports issued pursuant to vouchers approved by the  
30 secretary of commerce or the secretary's designee.

31 (e) No reimbursement shall be issued unless the qualified firm or the  
32 qualified supplier has been certified by the secretary, as provided in section  
33 2, and amendments thereto, as meeting all requirements of this act, any  
34 rules and regulations of the secretary and the agreement executed pursuant  
35 to section 2, and amendments thereto.

36 New Sec. 8. There is hereby established in the state treasury the  
37 attracting powerful economic expansion new employee training and  
38 education fund to be administered by the secretary of commerce. All  
39 moneys credited to the attracting powerful economic expansion new  
40 employee training and education fund shall be used by the Kansas  
41 department of commerce ~~only for purposes related to reimbursement of~~  
42 qualified firms and qualified suppliers for training and education eligible  
43 expenses pursuant to the provisions of sections 2 and 7, and amendments

New strikes in lines 7 and 8

. Only training and education expenses for new employees employed at a qualified business facility of the qualified supplier that is located and operating in Kansas shall be eligible for reimbursement. A qualified supplier

of the qualified firm

, as limited by subsection (a),

(f) If the qualified firm or qualified supplier breaches the terms and conditions of the agreement pursuant to section 2, and amendments thereto, reimbursements shall be repaid to the state as provided by section 2, and amendments thereto.

to

new strikes in line 41

1 thereto. All expenditures from the attracting powerful economic expansion  
2 new employee training and education fund shall be made in accordance  
3 with appropriation acts upon warrants of the director of accounts and  
4 reports issued pursuant to vouchers approved by the secretary of  
5 commerce or the secretary's designee.

6 ~~New Sec. 9. (a) The following described property, to the extent herein  
7 specified, shall be exempt from 50% of all real property taxes levied under  
8 the laws of Kansas: Any new manufacturing property or new headquarters  
9 located in a foreign trade zone program.~~

Strike all in New Sec. 9

10 ~~(b) The provisions of subsection (a) shall apply from and after the  
11 completion of construction of such property and continue only for a period  
12 as determined by the secretary that the manufacturing operations or  
13 headquarters operations continue and constitute active participation, to the  
14 extent applicable, in the foreign trade zone program.~~

15 ~~(c) The provisions of this section shall apply to all taxable years  
16 beginning after December 31, 2021.~~

17 ~~(d) As used in this section:~~

18 ~~(1) "New manufacturing property" means any real property purchased  
19 or constructed after December 31, 2021, that is a qualified business facility  
20 owned by a qualified firm or a qualified supplier, as defined in paragraph  
21 (3), provided such property is regularly used to manufacture and produce  
22 goods for one or more of the following industries, as determined by the  
23 secretary of commerce:~~

24 ~~(A) Advanced manufacturing;~~

25 ~~(B) aerospace;~~

26 ~~(C) distribution, logistics and transportation;~~

27 ~~(D) food and agriculture; or~~

28 ~~(E) professional and technical services.~~

29 ~~(2) "Headquarters" means the same as defined in section 1, and  
30 amendments thereto, that is owned by a qualified firm or qualified  
31 supplier, as defined in paragraph (3).~~

32 ~~(3) "Qualified firm" or "qualified supplier" means a "qualified firm"  
33 or a "qualified supplier" as defined in section 1, and amendments thereto,  
34 that has met and is in compliance with the requirements of section 2, and  
35 amendments thereto, including, with respect to a qualified firm, the  
36 requirement of investment of at least \$1,000,000,000 over a period of five  
37 years in the new manufacturing property or new headquarters property  
38 located in a foreign trade zone program.~~

39 New Sec. 10. (a) On and after the effective date of this act, a qualified  
40 firm or a qualified supplier that meets the requirements of section 2, and  
41 amendments thereto, and this section may be eligible for a sales tax  
42 exemption under the provisions of K.S.A. 79-3606(oooo), and  
43 amendments thereto.

1 (b) (1) Qualified firms ~~shall be eligible~~ commencing on the date the  
2 qualified firm commences construction of the qualified business facility, as  
3 determined by the secretary of commerce, or an earlier date if agreed by  
4 the secretary and incorporated into the agreement pursuant to section 2,  
5 and amendments thereto.

that satisfy the requirements set forth in subsection (c) shall  
qualify for the sales tax exemption

6 (2) Qualified suppliers ~~shall be eligible~~ commencing on the date that  
7 the qualified firm selected the qualified supplier for benefit eligibility  
8 pursuant to section 2, and amendments thereto. *{The secretary of  
9 commerce shall certify to the secretary of revenue that a qualified  
10 supplier is eligible and the date of eligibility of the qualified supplier.}*

11 (c) To be eligible to receive the sales tax exemption, the qualified  
12 firm or qualified supplier shall have been approved by and entered into an  
13 agreement with the secretary for a qualified investment in a qualified  
14 business facility **including, with respect to a qualified firm, a  
15 requirement of an investment** of at least \$1,000,000,000 pursuant to the  
16 requirements of ~~sections section 2 and 3,~~ and amendments thereto. The  
17 secretary of commerce shall provide notice to the secretary of revenue  
18 regarding an approval of a sales tax exemption under this section. The  
19 sales tax exemption shall be valid ~~until construction of the qualified  
20 business facility has been completed~~ or the date specified for completion  
21 of the qualified business facility in the agreement executed pursuant to  
22 section 2, and amendments thereto, whichever occurs first. No sales tax  
23 exemption shall be issued by the secretary of revenue unless the qualified  
24 firm or the qualified supplier has been certified by the secretary of  
25 commerce, as provided in section 2, and amendments thereto, as meeting  
26 all requirements of this act, the rules and regulations of the secretary, if  
27 any, and the agreement executed pursuant to section 2, and amendments  
28 thereto.

as certified by the secretary of commerce to the  
secretary of revenue;

29 (d) A sales tax exemption shall be revoked by the secretary of  
30 revenue upon notification by the secretary of commerce that the qualified  
31 firm or qualified supplier has been disapproved by the secretary of  
32 commerce.

(e) If the qualified firm or qualified supplier breaches the terms and  
conditions of the agreement pursuant to section 2, and amendments  
thereto, the amount of sales tax exempted shall be repaid to the state as  
provided by section 2, and amendments thereto.  
  
(f) For the purposes of this ~~section-act~~, "construction" includes construction,  
reconstruction, enlarging or remodeling a ~~dis~~qualified business facility  
pursuant to the provisions of this act.

33 New Sec. 11. (a) On or before January 31 of each year, the secretary  
34 of commerce shall transmit to the governor, the senate standing  
35 committees on assessment and taxation and commerce and the house of  
36 representatives standing committees on taxation and commerce, labor and  
37 economic development, or any successor committee, a report based on  
38 information received from each qualified firm or qualified supplier  
39 receiving benefits under this act, describing, at a minimum, the following:

- 40 (1) The names of the qualified firms or qualified suppliers;
- 41 (2) the types of qualified firms or qualified suppliers utilizing the act;
- 42 (3) the location of such companies and the location, description and  
43 economic and industry impact of such companies' business operations in

cumulative

1 Kansas;

- 2 (4) the number of new employees hired;
- 3 (5) the wages paid for such new employees;
- 4 (6) the annual and cumulative amount of investments made;
- 5 (7) the annual amount of each benefit provided under this act;
- 6 (8) the estimated net state fiscal impact, including the direct and
- 7 indirect new state taxes derived from the new employees hired; ~~and~~
- 8 (9) an estimate of the multiplier effect on the Kansas economy of the
- 9 benefits received under this act.

and the new employees hired in that calendar year, with respect to each qualified firm and qualified supplier

10 (b) Commencing on the effective date of this act, the secretary of  
11 commerce shall transmit quarterly to the chairpersons of the senate  
12 standing committee on commerce and the house of representatives  
13 standing committee on commerce, labor and economic development, or  
14 any successor committee, a report on the number of projects that may  
15 qualify for incentives under this act.

;

(10) any material defaults by a qualified firm or qualified supplier of the terms of any agreement pursuant to section 2, and amendments thereto;

(11) the percentage of the business of a qualified supplier that is with the qualified firm that designated the qualified supplier

16 ***New Sec. 12. (a) Commencing with fiscal year 2022, in any fiscal***  
17 ***year that a qualified firm or ~~qualified supplier receives benefits~~ under***  
18 ***the advancing powerful economic expansion act, sections 1 through 12,***  
19 ***and amendments thereto, the secretary of commerce shall certify such***  
20 ***fact to the secretary of revenue, the director of the budget and the***  
21 ***director of legislative research. Such certification shall be made when***  
22 ***such fact is known to the secretary, but in any event on or before June***  
23 ***30 of such fiscal year.***

24 (b) Upon receipt of such certification, the secretary of revenue shall  
25 adjust the corporate income tax rate imposed pursuant to the provisions  
26 of K.S.A. 79-32,110, and amendments thereto, to go into effect for the  
27 next tax year by reducing the rate by 0.5%.

enters in to an agreement with the secretary of commerce for the first time pursuant to section 2, and amendments thereto, and commences construction on a qualified business facility investment

28 (c) The rate reduction of 0.5% shall be applied ~~first~~ to reduce the  
29 normal tax on corporations imposed pursuant to K.S.A. 79-32,110, and  
30 amendments thereto. ~~Upon the normal tax on corporations being~~  
31 ~~reduced to 0%, the rate reduction shall next be applied to the surtax on~~  
32 ~~corporations until reduced to 0%.~~

The maximum reduction to be applied for one taxable year shall be 0.5% reduction regardless of the number of eligible qualifying firms that may be eligible pursuant to this section have satisfied the conditions of subsection (a).

33 (d) The secretary of revenue shall report any reduction in corporate  
34 income tax rates pursuant to this section to the chairpersons of the  
35 senate standing committees on assessment and taxation and commerce,  
36 the chairpersons of the house of representatives standing committees on  
37 commerce, labor and economic development and taxation and the  
38 governor, and shall cause notice of any such reduction to be published  
39 in the Kansas register prior to September 15 of the calendar year  
40 immediately preceding the tax year in which such reduction takes effect.

, until reduced to 0%

41 ***Sec. 13. <sup>1</sup> K.S.A. 79-32,110 is hereby amended to read as follows: 79-***  
42 ***32,110. (a) Resident Individuals. Except as otherwise provided by K.S.A.***  
43 ***79-3220(a), and amendments thereto, a tax is hereby imposed upon the***

Insert new sections 13 and 14 from attachment 1 and redesignate sections accordingly

1 *Over \$15,000 but not over \$30,000.....\$525 plus 6.25% of excess*  
2 *over \$15,000*  
3 *Over \$30,000.....\$1,462.50 plus 6.45% of excess*  
4 *over \$30,000*  
5 **(B) For tax year 2013:**  
6 *If the taxable income is: The tax is:*  
7 *Not over \$15,000.....3.0% of Kansas taxable income*  
8 *Over \$15,000.....\$450 plus 4.9% of excess over*  
9 *\$15,000*  
10 **(C) For tax year 2014:**  
11 *If the taxable income is: The tax is:*  
12 *Not over \$15,000.....2.7% of Kansas taxable income*  
13 *Over \$15,000.....\$405 plus 4.8% of excess over*  
14 *\$15,000*  
15 **(D) For tax years 2015 and 2016:**  
16 *If the taxable income is: The tax is:*  
17 *Not over \$15,000.....2.7% of Kansas taxable income*  
18 *Over \$15,000.....\$405 plus 4.6% of excess over*  
19 *\$15,000*  
20 **(E) For tax year 2017:**  
21 *If the taxable income is: The tax is:*  
22 *Not over \$15,000.....2.9% of Kansas taxable income*  
23 *Over \$15,000 but not over \$30,000.....\$435 plus 4.9% of excess over*  
24 *\$15,000*  
25 *Over \$30,000.....\$1,170 plus 5.2% of excess over*  
26 *\$30,000*  
27 **(F) For tax year 2018, and all tax years thereafter:**  
28 *If the taxable income is: The tax is:*  
29 *Not over \$15,000.....3.1% of Kansas taxable income*  
30 *Over \$15,000 but not over \$30,000.....\$465 plus 5.25% of excess*  
31 *over \$15,000*  
32 *Over \$30,000.....\$1,252.50 plus 5.7% of excess*  
33 *over \$30,000*

34 **(b) Nonresident Individuals.** *A tax is hereby imposed upon the*  
35 *Kansas taxable income of every nonresident individual, which tax shall*  
36 *be an amount equal to the tax computed under subsection (a) as if the*  
37 *nonresident were a resident multiplied by the ratio of modified Kansas*  
38 *source income to Kansas adjusted gross income.*

39 **(c) Corporations.** *A tax is hereby imposed upon the Kansas taxable*  
40 *income of every corporation doing business within this state or deriving*  
41 *income from sources within this state. Such tax shall consist of a normal*  
42 *tax and a surtax and shall be computed as follows:*

43 **(1)** *The normal tax shall be in an amount equal to 4% of the*

unless otherwise modified pursuant to section 12, and amendments thereto

1 *Kansas taxable income of such corporation; and*

2 ~~(2) (A) for tax year 2008, the surtax shall be in an amount equal to~~  
3 ~~3.1% of the Kansas taxable income of such corporation in excess of~~  
4 ~~\$50,000;~~

5 ~~(B) for tax years 2009 and 2010, the surtax shall be in an amount~~  
6 ~~equal to 3.05% of the Kansas taxable income of such corporation in~~  
7 ~~excess of \$50,000; and~~

8 ~~(C) for tax year 2011, and all tax years thereafter, the surtax shall~~  
9 ~~be in an amount equal to 3% of the Kansas taxable income of such~~  
10 ~~corporation in excess of \$50,000.~~

11 (d) *Fiduciaries. A tax is hereby imposed upon the Kansas taxable*  
12 *income of estates and trusts at the rates provided in subsection (a)(2)*  
13 *hereof.*

14 (e) *Notwithstanding the provisions of subsections (a) and (b): (1)*  
15 *For tax years 2016 and 2017, married individuals filing joint returns*  
16 *with taxable income of \$12,500 or less, and all other individuals with*  
17 *taxable income of \$5,000 or less, shall have a tax liability of zero; and*  
18 *(2) for tax year 2018, and all tax years thereafter, married individuals*  
19 *filing joint returns with taxable income of \$5,000 or less, and all other*  
20 *individuals with taxable income of \$2,500 or less, shall have a tax*  
21 *liability of zero.*

22 (f) *No taxpayer shall be assessed penalties and interest arising from*  
23 *the underpayment of taxes due to changes to the rates in subsection (a)*  
24 *that became law on July 1, 2017, so long as such underpayment is*  
25 *rectified on or before April 17, 2018.*

26 ~~(g) Tax rates imposed upon corporations provided in this section~~  
27 ~~shall be adjusted pursuant to the provisions of section 12, and~~  
28 ~~amendments thereto.~~

29 ~~Sec. 12. 14.~~ K.S.A. 2021 Supp. 79-3606 is hereby amended to read as  
30 follows: 79-3606. The following shall be exempt from the tax imposed by  
31 this act:

32 (a) All sales of motor-vehicle fuel or other articles upon which a sales  
33 or excise tax has been paid, not subject to refund, under the laws of this  
34 state except cigarettes and electronic cigarettes as defined by K.S.A. 79-  
35 3301, and amendments thereto, including consumable material for such  
36 electronic cigarettes, cereal malt beverages and malt products as defined  
37 by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt,  
38 malt syrup and malt extract, that is not subject to taxation under the  
39 provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles  
40 taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed  
41 pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and  
42 laundry services taxed pursuant to K.S.A. 65-34,150, and amendments  
43 thereto, and gross receipts from regulated sports contests taxed pursuant to

New strikes in lines 2 through 8

New strikes in lines 26 through 28

1 families, friends and neighbors, and all sales of entry or participation fees,  
 2 charges or tickets by friends of hospice of Jefferson county for such  
 3 organization's fundraising event for such purpose; and  
 4 (oooo) all sales of tangible personal property or services purchased  
 5 ~~on or after July 1, 2022,~~ for the purpose of and in conjunction with  
 6 constructing, reconstructing, enlarging or remodeling a qualified business  
 7 facility by a qualified firm or qualified supplier that meets the  
 8 requirements established in sections 2 and 10, and amendments thereto,  
 9 and that has been approved for a project exemption certificate by the  
 10 secretary of commerce, and the sale and installation of machinery and  
 11 equipment purchased by such qualified firm or qualified supplier for  
 12 installation at any such qualified ~~building~~ business facility. When a person  
 13 shall contract for the construction, reconstruction, enlargement or  
 14 remodeling of any such qualified ~~building~~ business facility, such person  
 15 shall obtain from the state and furnish to the contractor an exemption  
 16 certificate for the project involved, and the contractor may purchase  
 17 materials, machinery and equipment for incorporation in such project.  
 18 The contractor shall furnish the number of such certificates to all  
 19 suppliers from whom such purchases are made, and such suppliers shall  
 20 execute invoices covering the same bearing the number of such certificate.  
 21 Upon completion of the project, the contractor shall furnish to the owner  
 22 of the qualified firm or qualified supplier a sworn statement, on a form to  
 23 be provided by the director of taxation, that all purchases so made were  
 24 entitled to exemption under this subsection. All invoices shall be held by  
 25 the contractor for a period of five years and shall be subject to audit by  
 26 the director of taxation. Any contractor or any agent, employee or  
 27 subcontractor thereof who shall use or otherwise dispose of any materials,  
 28 machinery or equipment purchased under such a certificate for any  
 29 purpose other than that for which such a certificate is issued without the  
 30 payment of the sales or compensating tax otherwise imposed thereon, shall  
 31 be guilty of a misdemeanor and, upon conviction therefor, shall be subject  
 32 to the penalties provided for in K.S.A. 79-3615(h), and amendments  
 33 thereto. As used in this subsection, "qualified business facility," "qualified  
 34 firm" and "qualified supplier" mean the same as defined in section 1, and  
 35 amendments thereto.

36 **{New Sec. 15. The secretary of commerce shall not enter into any**  
 37 **agreement with a qualified firm or qualified supplier pursuant to section**  
 38 **2, and amendments thereto, on and after ~~March 31, 2023,~~**

39 ~~Sec. 13-15. {16.}~~ **K.S.A. 79-32,110 and K.S.A. 2021 Supp. 79-3606**  
 40 **is are** hereby repealed.

41 ~~Sec. 14-16. {17.}~~ This act shall take effect and be in force from and  
 42 after its publication in the Kansas register.

consider a new application, proceed with an application that  
 has been submitted or

May 1, 2024

# Attachment 1

## New Sec. 13

- (a) On and after July 1, 2022, a qualified firm that meets the requirements of this section and section 2, and amendments thereto, and that has entered into an agreement with the secretary, as provided by section 2, and amendments thereto, shall be eligible for annual reimbursement of up to 50% of relocation incentives and expenses provided by the qualified firm to incentivize employees who are not Kansas residents to relocate their primary residence to this state and become Kansas residents. Reimbursement for such eligible incentives and expenses shall not exceed an annual reimbursement amount of \$1,000,000 to the qualified firm, as determined by the secretary. Reimbursement for such eligible incentives and expenses may be provided for up to ten successive years, as determined by the secretary.
- (b) The qualified firm shall submit to the secretary a Kansas residency incentive plan for which it will seek reimbursement and the expected costs for each component of the plan. The reimbursement percentage shall be subject to the qualified firm meeting goals for incentivizing employees to become new Kansas residents as determined by the secretary. If the secretary approves the plan, the qualified firm and the secretary shall enter into an agreement that requires the qualified firm to provide annual documentation of the relocation incentive expenditures and the results of such expenditures to the secretary. No reimbursement shall be made unless the secretary of commerce has certified, for each year for which a reimbursement is claimed, that the qualified firm meets all requirements of this act, the rules and regulations of the secretary, and the agreements entered into pursuant to this section and section 2, and amendments thereto.
- (c) The qualified firm shall remit to the state an amount equal to the amount of benefits provided to the qualified firm pursuant to this section upon any breach by the qualified firm of the terms and conditions set forth in the agreement entered into pursuant to this section or section 2, and amendments thereto. The agreement between the secretary of commerce and the qualified firm entered into pursuant to this section and section 2, and amendments thereto, shall specify such repayment requirements in such agreement.
- (d) Subject to appropriations therefor, the allowable amount of reimbursement shall be paid to the qualified firm from the attracting powerful economic expansion Kansas residency incentive fund, established by section 14, and amendments thereto, upon warrants of the director of accounts and reports pursuant to vouchers approved by the secretary or by the secretary's designee. No interest shall be allowed on any payment made to a qualified firm pursuant to this section.

# Attachment 1

## New Sec. 14

There is hereby established in the state treasury the attracting powerful economic expansion Kansas residency incentive fund to be administered by the secretary of commerce. All moneys credited to the attracting powerful economic expansion Kansas residency incentive fund shall be used by the Kansas department of commerce ~~only for purposes related to~~ reimbursement to qualified firms for expenses incurred in a Kansas residency incentive plan for employees pursuant to the provisions of section 2 and 13, and amendments thereto. All expenditures from the attracting powerful economic expansion Kansas residency incentive fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of commerce or the secretary's designee.