

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***.

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.

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:

PROPOSED AMENDMENT

2/1/2022

Committee on Commerce, Labor and Economic Development

Claw back of benefits for relocation of a qualified firm's operations in the
10th through 15th year after the agreement with the secretary

Office of Revisor of Statutes

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

(j) (1) In addition to the provisions of subsection (c)(7) and any other
repayment requirement pursuant to this act, as a condition of receiving
benefits under this act, a qualified firm that relocates its qualified business
facility operations outside this state in the 10th through the 15th year next
following the year the qualified firm entered into the agreement with the
secretary pursuant to subsection (c)(5), shall be subject to a benefit repayment
requirement to the state in the amount of:
(A) 100% of all benefits received if the relocation occurs in the 11th year;
(B) 80% of all benefits received if the relocation occurs in the 12th year;
(C) 60% of all benefits received if the relocation occurs in the 13th year;
(D) 40% of all benefits received if the relocation occurs in the 14th year; and
(E) 20% of all benefits received if the relocation occurs in the 15th year.
(2) The amount due to the state shall be paid pursuant to a repayment
schedule and with interest as determined by the secretary and set forth in the
agreement pursuant to subsection (c)(5), but in no event shall be paid in more
than 10 years.
(2) The benefit repayment requirement shall be waived if the qualified firm
sells the qualified business facility to another business and the operations of the
qualified business facility are substantially continued in this state by such
business, as determined by the secretary of commerce.