

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on House amendments to **SB 296** submits the following report:

The Senate accedes to all House amendments to the bill, and your committee on conference further agrees to amend the bill as printed with House Committee amendments, as follows:

On page 1, by striking all in lines 6 through 29 and inserting the following:

"New Section 1. Sections 1 through 11, and amendments thereto, shall be known and may be cited as the ad astra rural jobs act.

New Sec. 2. As used in sections 1 through 11, and amendments thereto:

(a) "Affiliate" means a person that directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person or entity. A person is controlled by another person if the controlling person holds, directly or indirectly, the majority voting or ownership interest in the controlled person or has control over the day-to-day operations of the controlled person by contract or by law.

(b) "Approved investment company" means a person, not including an individual, seeking to make fundings that will create wealth and job opportunities in identified rural areas and that has been approved by the secretary pursuant to section 4, and amendments thereto.

(c) "Closing date" means the date on which an approved investment company collects all of the committed dollar amounts, for purposes of making fundings, as required under section 4(f), and amendments thereto.

(d) "Credit-eligible capital contribution" means an investment of cash in an approved investment company made:

(1) (A) For an equity interest in the approved investment company; or

(B) for the purchase, at par value or at a premium, of a debt instrument issued by the approved investment company that has a maturity date at least five years from the date of investment; and

(2) by a person subject to income tax liability imposed against such person under the Kansas income tax act, excluding withholding tax imposed under K.S.A. 79-3294 et seq., and amendments thereto, a national banking association, state bank, trust company or savings and loan association paying an annual tax on its net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, or any insurance company paying the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the retaliatory tax imposed pursuant to K.S.A. 40-253, and amendments thereto.

(e) "Department" means the department of commerce.

(f) "Funding" means any equity or equity-like investment by an approved investment company in a rural business concern or any loan to a rural business concern by an approved investment company with a final maturity date of at least two years after the date of issuance.

(g) "Growth capital" means the total of cash investments in an approved investment company, including credit-eligible capital contributions from investors and other cash investments, in the amount as approved by the secretary and stated on the notice issued under section 4(e), and amendments thereto. At least 60% of growth capital must be comprised of credit-eligible capital contributions. At least 10% of growth capital must be composed of equity investments contributed by affiliates of the approved investment company, including employees, officers and directors of such affiliates.

(h) "Operating company" means a person that is in the business of generating revenue through sale of services or sale of a product, excluding real property, and that is not a publicly traded business and that has not participated, in the last five years, in the Kansas high performance incentive program or the promoting employment across Kansas program.

(i) "Person" means an individual, proprietorship, partnership, limited liability partnership, association, trust, estate, firm, group, corporation, limited liability corporation or other organization.

(j) "Principal business operations" means the location where at least 60% of the operating company's employees work or where employees who are paid at least 60% of the operating company's payroll work. An operating company whose principal business operations is not in Kansas that has agreed to move the location of its principal business operations using the proceeds of its funding for a purpose of meeting the definition of a rural business concern shall be deemed to have its principal business operations in the new location at the time of such agreement, subject to the operating company completing the agreed relocation within 180 days after funding.

(k) "Rural area" means a location:

(1) That is not within a city with a population greater than 60,000, or within the urbanized area contiguous and adjacent to the city, according to the most recent decennial United States census; or

(2) determined to be a "rural area" by the secretary upon consideration of factors including, but not limited to:

(A) Population density, density of commercial development and availability of non-

farm employment; or

(B) attachment to the urbanized area of a city as defined in paragraph (1) by a contiguous area of urbanized census blocks that is not more than two census blocks wide.

(l) "Rural business concern" means an operating company that:

(1) Has its principal business operations in one or more rural areas in Kansas;

(2) has fewer than 250 employees and had an average federal adjusted gross income of less than \$10,000,000 in the three preceding tax years; and

(3) engages in industries related to manufacturing, plant sciences, technology, farming, forestry, biotechnology, fisheries, biofuels, transportation, healthcare, warehousing, the supply of inputs for the agriculture and food industry, branded and other food production, the feed industry or agricultural technology or, if not engaged in such industries, the secretary makes a determination that the targeted funding of the operating company will be highly beneficial to the economic growth of the state and the rural area or areas in which the operating company is or will be located.

(m) "Secretary" means the secretary of commerce.

New Sec. 3. (a) There is hereby established in the state treasury the ad astra rural jobs fund, which shall be administered by the secretary of commerce. All expenditures from the ad astra rural jobs fund shall be solely for the administration of the ad astra rural jobs act. All expenditures from the ad astra rural jobs 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.

(b) All moneys received by the secretary for the ad astra rural jobs act shall be

deposited in the state treasury in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and shall be credited to the ad astra rural jobs fund.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the ad astra rural jobs fund interest earnings based on:

(1) The average daily balance of moneys in the ad astra rural jobs fund established by this section for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

New Sec. 4. (a) Beginning on October 1, 2018, the department shall accept applications for approved investment companies. The application shall include:

(1) The amount of growth capital sought by the applicant;

(2) a copy of the applicant's or its affiliate's license as a rural business investment company under 7 U.S.C. § 2009cc or as a small business investment company under 15 U.S.C. § 681;

(3) evidence demonstrating that the applicant or its affiliates have invested at least \$100,000,000 in non-publicly traded operating companies located in counties with a population of less than 50,000;

(4) an estimate of the number of jobs that will be created or retained in Kansas as a result of the applicant's funding;

(5) a business plan for the applicant's proposed fundings and estimated jobs created and retained that includes a 10-year revenue impact assessment prepared by a nationally recognized third-party independent economic forecasting firm approved by the secretary, and that projects

state and local tax revenue to be generated by the applicant's fundings under the business plan;

(6) an affidavit from each investor in the applicant stating a commitment to make a credit-eligible capital contribution in support of the business plan and the amount of such credit-eligible capital contribution;

(7) a nonrefundable application fee not to exceed \$5,000; and

(8) such other information as may be required in rules and regulations promulgated by the secretary.

(b) The secretary shall make an application determination within 60 days of receipt in the order in which applications are received. The secretary shall deem applications received on the same day as received simultaneously. Except as provided under section 7(d), and amendments thereto, the secretary shall not approve more than \$83,333,333 in growth capital and not more than \$50,000,000 in credit-eligible capital contributions under this section. If requests for growth capital exceed this limitation, the secretary shall proportionally reduce the growth capital and the credit-eligible capital contributions for each approved application as necessary to meet the limitation. No application by an applicant, including affiliate applicants, shall be approved for more than $\frac{1}{3}$ the limitation provided in this subsection.

(c) The secretary shall deny an application submitted under this section if:

(1) The application fee is not paid in full;

(2) the applicant does not satisfy all the requirements under subsections (a)(2) and (a)

(3). Any affiliate used to satisfy the requirements of subsections (a)(2) and (a)(3) must have been an affiliate of the applicant as of January 1, 2017;

(3) the revenue impact assessment does not demonstrate that the applicant's business

plan will result in a positive economic impact in Kansas over a 10-year period that exceeds the cumulative amount of tax credits the applicant seeks;

(4) (A) commitments for credit-eligible capital contributions do not equal at least 60% of the total growth capital sought under the applicant's business plan; or

(B) commitments of equity investments contributed by affiliates of the approved investment company, including employees, officers and directors of such affiliates, do not equal at least 10% of the total growth capital sought; or

(5) the secretary has already approved the maximum amount of growth capital and credit-eligible capital contributions allowed under subsection (b).

(d) If the secretary denies an application, the applicant may provide additional information within 15 days of the notice of denial to the secretary to complete, clarify or cure defects in the application identified by the secretary. The secretary shall reconsider the application and make a determination within 30 days of receiving all additional information to be considered before approving any pending applications submitted after the denied applicant's original submission date. The secretary shall not deny an application or reduce the requested growth capital for reasons other than those described under subsection (b) or (c).

(e) If the application is approved, the secretary shall provide written notice to the applicant stating:

(1) The applicant is an approved investment company; and

(2) the amount of the applicant's approved growth capital and credit-eligible capital contributions.

(f) (1) After receiving notice of approval from the department pursuant to subsection

(e), an approved investment company shall within 60 days:

(A) Collect the credit-eligible capital contributions from each investor whose affidavit was listed in the application; and

(B) collect one or more investments of cash that, if added to credit-eligible capital contributions, equal the approved investment company's growth capital and deliver to the department documentation sufficient to prove that such amounts have been collected.

(2) If the approved investment company fails to fully comply with the provisions of paragraph (1), the approved investment company's approval shall lapse and the lapsed corresponding growth capital and credit-eligible capital contributions previously approved by the secretary shall not count toward the total growth capital and credit-eligible capital contribution limits of subsection (b). The secretary shall first award lapsed growth capital pro rata to each approved investment company that was awarded less than its requested growth capital in the order in which the application was received. Each recipient approved investment company may allocate its approved credit-eligible capital contributions to its investors who submitted affidavits in its discretion. Any remaining growth capital and available tax credits may be awarded by the secretary to successful new applicants.

(g) Application fees submitted to the department shall be deposited in the state treasury and credited to the ad astra rural jobs fund. No other fee shall be charged for the administration of tax credits by the department or the department of revenue. If necessary, the department may request and, subject to appropriation acts, shall receive appropriations necessary to implement and administer the program.

(h) The department shall provide a copy of the notice required in subsection (e) to the

department of revenue.

New Sec. 5. An approved investment company, before making a funding, shall request a written opinion from the department stating whether the business in which it proposes to invest is a rural business concern. The department shall respond to a request with its determination within 15 business days of receiving such request. If the department fails to respond within 15 business days of receiving the request, the business for which determination is sought shall be considered a rural business concern. The department's determination shall govern whether the business is considered a rural business concern for purposes of sections 1 through 11, and amendments thereto, except for a failure of a rural business concern to complete and maintain any agreed relocations of its principal business operations or for fraud.

New Sec. 6. (a) There shall be allowed as a credit against the tax liability of a taxpayer subject to the tax imposed under the Kansas income tax act, the annual tax on net income pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, the premium tax and privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, and the retaliatory tax imposed pursuant to K.S.A. 40-253, and amendments thereto, for taxpayers that make a credit-eligible capital contribution to an approved investment company and that receive a tax credit certificate issued under this section. The credit shall not be sold or transferred to any other entity, except an affiliate nor allocated to a taxpayer's partners, shareholders or members.

(b) The taxpayer shall earn a vested credit equal to the amount of the taxpayer's credit-eligible capital contribution to the approved investment company upon providing documentation to the department of the contribution. Upon review and approval of the documentation, the

department shall issue a tax credit certificate in the amount of the tax credit approval by the department to the taxpayer. The taxpayer may claim an amount up to 20% of the tax credit certificate authorized under this section for each of the five tax years beginning on or after the second anniversary of the closing date, exclusive of amounts carried forward under subsection (c).

(c) If the amount of the tax credit exceeds the taxpayer's tax liability for the taxable year, the amount thereof which exceeds the tax liability may be carried forward for deduction from the taxpayer's tax liability in the succeeding taxable year or years until the total amount of the tax credit has been deducted from tax liability, except that no such tax credit shall be carried forward for deduction after the fifth taxable year succeeding the taxable year in which such credit initially was claimed.

(d) The maximum amount of credits claimed in any one fiscal year by all taxpayers pursuant to this section shall not exceed \$10,000,000, exclusive of amounts carried forward under subsection (c).

New Sec. 7. (a) The secretary shall revoke a tax credit certificate issued under section 6, and amendments thereto, upon a determination by the secretary of commerce that any of the following occur with respect to an approved investment company before it exits the program in accordance with subsection (f):

(1) The approved investment company does not invest 100% of its growth capital in funding within two years of the closing date;

(2) the approved investment company, after investing 100% of its growth capital in fundings, fails to maintain that investment until the sixth anniversary of the closing date. An

investment shall be considered maintained by an approved investment company even if the investment has been sold or repaid, if the approved investment company reinvests an amount equal to the capital returned to or recovered by the approved investment company from the original investment, exclusive of any profits realized, in another funding within twelve months of the receipt of such capital. Periodic amounts received as repayment of principal pursuant to regularly scheduled amortization payments on a funding shall be treated as maintained if the amounts are reinvested in one or more fundings by the end of the following calendar year. The amount of funding that will be included towards satisfaction of the requirements of this paragraph with respect to any one rural business concern, collectively with any fundings in affiliates of such rural business concern, shall not exceed the greater of \$6,500,000 and 20% of the approved investment company's total growth capital;

(3) the approved investment company, before exiting the program, makes a distribution or payment that results in the approved investment fund having less than 100% of its growth capital invested in fundings or available for investment in fundings and held as cash or other marketable securities;

(4) the approved investment company invests funding in a rural business concern that, directly or indirectly through an affiliate, owns, has the right to acquire an ownership interest in, makes a loan to, or makes an investment in the approved investment company, an affiliate of the approved investment company, or an investor in the approved investment company. This paragraph shall not apply to investments in publicly traded securities by a rural business concern or an owner or affiliate of such rural business concern. For purposes of this paragraph, an approved investment company shall not be considered an affiliate of a rural business concern

solely as a result of its funding; or

(5) the approved investment company invests funding in a rural business concern that fails to meet or maintain an agreed relocation of its principal business operations.

(b) Before revoking one or more tax credit certificates pursuant to subsection (a), the secretary shall notify the approved investment company of the reasons for the pending revocation. The approved investment company shall have 90 days from the date of such notice to correct the violations to the satisfaction of the secretary and avoid revocation of the tax credit certificate. The approved investment company shall be charged \$5,000 per day until the violation is corrected, and such amounts shall be deposited in the state treasury to the credit of the ad astra rural jobs fund.

(c) If the secretary revokes a tax credit certificate, the department of revenue shall make an assessment for the amount of the credit claimed by the certificate holder before the certificate was revoked.

(d) If tax credit certificates are revoked under this section, the associated growth capital and credit-eligible capital contributions do not count toward the limit on total growth capital and credit-eligible capital contributions described under section 4(b), and amendments thereto. The secretary shall first award reverted growth capital pro rata to each approved investment company that was awarded less than its requested growth capital. Any remaining growth capital may be awarded by the department to new approved investment companies.

New Sec. 8. (a) After the sixth anniversary of the closing date, an approved investment company shall be allowed to exit the program if none of the approved investment company's tax credit certificates were revoked or are pending revocation. The secretary shall approve the exit of

the approved investment company from the program and the regulations of sections 1 through 11, and amendments thereto, within 60 days of receiving a request to exit.

(b) If the number of jobs created or retained by the rural business concerns that received fundings from an approved investment fund through the date of the proposed distribution is:

(1) Less than 60% of the amount projected in the approved investment fund's business plan filed as part of its application for certification, then the state shall receive 30% of any distribution or payment to an equity holder in an approved investment fund in excess of the sum of the amount of equity capital invested in the approved investment fund by such equity holder and an amount equal to any projected increase in the equity holder's federal or state tax liability, including penalties and interest, related to the equity holder's ownership, management or operation of the approved investment fund; or

(2) greater than 60% but less than 100% of the amount projected in the approved investment fund's business plan filed as part of its application for certification, then the state shall receive 15% of any distribution or payment to an equity holder in an approved investment fund in excess of the sum of the amount of equity capital invested in the approved investment fund by such equity holder and an amount equal to any projected increase in the equity holder's federal or state tax liability, including penalties and interest, related to the equity holder's ownership, management or operation of the approved investment fund.

For purposes of this subsection (b), the secretary shall reduce the projected job creation projection in the approved investment fund's business plan pro rata based on the actual amount of growth capital received by the approved investment fund to the total amount of growth capital for which the approved investment fund applied.

(c) The secretary shall not revoke a tax credit certificate due to any actions of an approved investment company that occur after the date the department acknowledges an approved investment company's exit from the program.

(d) Moneys received by the secretary pursuant to this section shall be deposited in the state treasury to the credit of the ad astra rural jobs fund.

New Sec. 9. (a) Each approved investment company shall submit a report to the department on or before the fifth business day after the second anniversary of the closing date containing:

- (1) The approved investment company's bank statements evidencing each funding;
- (2) the name and location of each business receiving funding, including evidence that the business qualified as a rural business concern at the time the investment was made;
- (3) the number of employment positions created or retained as a result of the approved investment company's fundings as of December 31 of the preceding year; and
- (4) other information necessary for the department to administer the program.

(b) On or before April 30 of each year following the year in which the report required under subsection (a) is due, the approved investment company shall submit an annual report to the department containing:

- (1) The number of employment positions created or retained as a result of the approved investment company's fundings as of December 31 of the preceding calendar year;
- (2) the average annual salary of such positions; and
- (3) any other information required by the department.

New Sec. 10. The secretary of revenue and the secretary of commerce may promulgate

rules and regulations to implement the provisions of the ad astra rural jobs act.

New Sec. 11. (a) Except as provided in subsection (b), the provisions of the ad astra rural jobs act shall sunset on December 31 of the seventh year following the effective date of this act.

(b) Nothing in this section shall be construed so as to preclude a taxpayer that makes a credit-eligible capital contribution prior to the sunset of the ad astra rural jobs act from claiming tax credits relating to such investment after the sunset of this act.

Sec. 12. K.S.A. 2017 Supp. 12-17,169 is hereby amended to read as follows: 12-17,169. (a) (1) Any city or county shall have the power to issue special obligation bonds in one or more series to finance the undertaking of any STAR bond project in accordance with the provisions of this act. Such special obligation bonds shall be made payable, both as to principal and interest:

(A) From revenues of the city or county derived from or held in connection with the undertaking and carrying out of any STAR bond project or projects under this act including historic theater sales tax increments;

(B) from any private sources, contributions or other financial assistance from the state or federal government;

(C) from a pledge of 100% of the tax increment revenue received by the city from any local sales and use taxes, including the city's share of any county sales tax, which are collected from taxpayers doing business within that portion of the city's STAR bond project district established pursuant to K.S.A. 2017 Supp. 12-17,165, and amendments thereto, occupied by a STAR bond project, except for amounts committed to other uses by election of voters or pledged

to bond repayment prior to the approval of the STAR bond project;

(D) at the option of the county in a city STAR bond project district, from a pledge of all of the tax increment revenues received by the county from any local sales and use taxes which are collected from taxpayers doing business within that portion of the city's STAR bond project district established pursuant to K.S.A. 2017 Supp. 12-17,165, and amendments thereto, except for amounts committed to other uses by election of voters or pledged to bond repayment prior to the approval of a STAR bond project;

(E) in a county STAR bond project district, from a pledge of 100% of the tax increment revenue received by the county from any county sales and use tax, but excluding any portions of such taxes that are allocated to the cities in such county pursuant to K.S.A. 12-192, and amendments thereto, which are collected from taxpayers doing business within that portion of the county's STAR bond project district established pursuant to K.S.A. 2017 Supp. 12-17,165, and amendments thereto, occupied by a STAR bond project;

(F) (i) For STAR bond districts submitted to the secretary for approval pursuant to K.S.A. 2017 Supp. 12-17,165(b), and amendments thereto, prior to January 1, 2019, and for any modifications to the district as provided by K.S.A. 2017 Supp. 12-17,171, and amendments thereto, and any STAR bond projects developed in that district or in modifications to that district, from a pledge of all or a portion of the tax increment revenue received from any state sales taxes which are collected from taxpayers doing business within that portion of the city's or county's STAR bond project district occupied by a STAR bond project, ~~except that;~~

(ii) for STAR bond districts submitted to the secretary for approval pursuant to K.S.A. 12-17,165(b), and amendments thereto, on or after January 1, 2019, and for any modifications to

the district as provided by K.S.A. 2017 Supp. 12-17,171, and amendments thereto, and any STAR bond projects developed in that district or in any modifications to that district, the maximum portion of the tax increment revenue received from state sales taxes to be pledged as described by subsection (a)(1)(F)(i) shall be capped at a rate that is 85% of the state sales tax rate. When an existing business located in this state relocates into or becomes part of a STAR bond project district, the secretary of revenue and the secretary of commerce shall certify the appropriate amount of base year revenue of the business as provided in K.S.A. 2017 Supp. 12-17,162(dd), and amendments thereto. The state sales and use tax portion of any tax increment revenue from the business in excess of the amount of base year revenue shall be capped as provided in this clause; and

(iii) for any STAR bond project district established and approved by the secretary on or after January 1, 2017, ~~such~~ the tax increment revenue received from any state sales taxes shall not include any sales tax revenue from retail automobile dealers;

(G) at the option of the city or county and with approval of the secretary, from all or a portion of the transient guest tax of such city or county;

(H) at the option of the city or county and with approval of the secretary: (i) From a pledge of all or a portion of increased revenue received by the city or county from franchise fees collected from utilities and other businesses using public right-of-way within the STAR bond project district; or (ii) from a pledge of all or a portion of the revenue received by a city or county from local sales taxes or local transient guest and local use taxes; or

(I) by any combination of these methods.

The city or county may pledge such revenue to the repayment of such special obligation

bonds prior to, simultaneously with, or subsequent to the issuance of such special obligation bonds.

(2) Bonds issued under subsection (a)(1) shall not be general obligations of the city or the county, nor in any event shall they give rise to a charge against its general credit or taxing powers, or be payable out of any funds or properties other than any of those set forth in subsection (a)(1) and such bonds shall so state on their face.

(3) Bonds issued under the provisions of subsection (a)(1) shall be special obligations of the city or county and are declared to be negotiable instruments. Such bonds shall be executed by the mayor and clerk of the city or the chairperson of the board of county commissioners and the county clerk and sealed with the corporate seal of the city or county. All details pertaining to the issuance of such special obligation bonds and terms and conditions thereof shall be determined by ordinance of the city or by resolution of the county.

All special obligation bonds issued pursuant to this act and all income or interest therefrom shall be exempt from all state taxes. Such special obligation bonds shall contain none of the recitals set forth in K.S.A. 10-112, and amendments thereto. Such special obligation bonds shall, however, contain the following recitals: (i) The authority under which such special obligation bonds are issued; (ii) such bonds are in conformity with the provisions, restrictions and limitations thereof; and (iii) that such special obligation bonds and the interest thereon are to be paid from the money and revenue received as provided in subsection (a)(1).

(4) Any city or county issuing special obligation bonds under the provisions of this act may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(b) (1) Subject to the provisions of subsection (b)(2), any city shall have the power to issue full faith and credit tax increment bonds to finance the undertaking, establishment or redevelopment of any major motorsports complex, as defined in K.S.A. 2017 Supp. 12-17,162(k), and amendments thereto. Such full faith and credit tax increment bonds shall be made payable, both as to principal and interest: (A) From the revenue sources identified in subsection (a)(1) or by any combination of these sources; and (B) subject to the provisions of subsection (b) (2), from a pledge of the city's full faith and credit to use its ad valorem taxing authority for repayment thereof in the event all other authorized sources of revenue are not sufficient.

(2) Except as provided in subsection (b)(3), before the governing body of any city proposes to issue full faith and credit tax increment bonds as authorized by this subsection, the feasibility study required by K.S.A. 2017 Supp. 12-17,166(b), and amendments thereto, shall demonstrate that the benefits derived from the project will exceed the cost and that the income therefrom will be sufficient to pay the costs of the project. No full faith and credit tax increment bonds shall be issued unless the governing body states in the resolution required by K.S.A. 2017 Supp. 12-17,166(e), and amendments thereto, that it may issue such bonds to finance the proposed STAR bond project. The governing body may issue the bonds unless within 60 days following the conclusion of the public hearing on the proposed STAR bond project plan a protest petition signed by 3% of the qualified voters of the city is filed with the city clerk in accordance with the provisions of K.S.A. 25-3601 et seq., and amendments thereto. If a sufficient petition is filed, no full faith and credit tax increment bonds shall be issued until the issuance of the bonds is approved by a majority of the voters voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law. The failure of the voters to approve the

issuance of full faith and credit tax increment bonds shall not prevent the city from issuing special obligation bonds in accordance with this section. No such election shall be held in the event the board of county commissioners or the board of education determines, as provided in K.S.A. 2017 Supp. 12-17,165, and amendments thereto, that the proposed STAR bond project district will have an adverse effect on the county or school district.

(3) As an alternative to subsection (b)(2), any city which adopts a STAR bond project plan for a major motorsports complex, but does not state its intent to issue full faith and credit tax increment bonds in the resolution required by K.S.A. 2017 Supp. 12-17,166(e), and amendments thereto, and has not acquired property in the STAR bond project area may issue full faith and credit tax increment bonds if the governing body of the city adopts a resolution stating its intent to issue the bonds and the issuance of the bonds is approved by a majority of the voters voting at an election thereon. Such election shall be called and held in the manner provided by the general bond law. The failure of the voters to approve the issuance of full faith and credit tax increment bonds shall not prevent the city from issuing special obligation bonds pursuant to subsection (a)(1). Any project plan adopted by a city prior to the effective date of this act in accordance with K.S.A. 12-1772, and amendments thereto, shall not be invalidated by any requirements of this act.

(4) During the progress of any major motorsports complex project in which the project costs will be financed, in whole or in part, with the proceeds of full faith and credit tax increment bonds, the city may issue temporary notes in the manner provided in K.S.A. 10-123, and amendments thereto, to pay the project costs for the major motorsports complex project. Such temporary notes shall not be issued and the city shall not acquire property in the STAR bond

project area until the requirements of subsection (b)(2) or (b)(3), whichever is applicable, have been met.

(5) Full faith and credit tax increment bonds issued under this subsection shall be general obligations of the city and are declared to be negotiable instruments. Such bonds shall be issued in accordance with the general bond law. All such bonds and all income or interest therefrom shall be exempt from all state taxes. The amount of the full faith and credit tax increment bonds issued and outstanding which exceeds 3% of the assessed valuation of the city shall be within the bonded debt limit applicable to such city.

(6) Any city issuing full faith and credit tax increment bonds under the provisions of this subsection may refund all or part of such issue pursuant to the provisions of K.S.A. 10-116a, and amendments thereto.

(c) (1) For each project financed with special obligation bonds payable from the revenues described in subsection (a)(1), the city or county shall prepare and submit to the secretary by October 1 of each year, a report describing the status of any projects within such STAR bond project area, any expenditures of the proceeds of special obligation bonds that have occurred since the last annual report and any expenditures of the proceeds of such bonds expected to occur in the future, including the amount of sales tax revenue, how such revenue has been spent, the projected amount of such revenue and the anticipated use of such revenue. The department of commerce shall compile this information and submit a report annually to the governor and the legislature by February 1 of each year.

(2) (A) In addition to the report referenced in paragraph (1), the department of commerce, in cooperation with the department of revenue, shall submit a report to the senate

commerce committee and the house commerce, labor and economic development committee by January 31 of each session. The report shall include the following information for the last three calendar years and the most current year-to-date information available with respect to each STAR bond district:

(i) The amount of sales tax collected, and the amount of any "base" sales taxes being allocated to the district;

(ii) the total amount of bond payments and other expenses incurred;

(iii) the total amount of bonds issued and the balance of the bonds, by district and by project in the district;

(iv) the remaining cash balance in the project to pay future debt service and other expenses;

(v) any new income producing properties being brought into a district and the base revenue going to the state general fund and incremental sales tax increases going to the district with respect to such properties;

(vi) the amount of bonds issued to repay private investors in the project with calculations showing the private and state share of indebtedness;

(vii) the percentage of local effort sales tax actually committed to the district compared to the state's share of sales tax percentage committed to the district;

(viii) the number of out-of-state visitors to a project, a discussion of the visitor attraction properties of projects in the districts, and a comparison of the number of out-of-state visitors with the number of in-state visitors; and

(ix) if any information or data is not available, an explanation as to why it is not

available.

(B) Either the senate commerce committee or the house committee on commerce, labor and economic development may amend the information required in the report with additional requests and clarification on a going forward basis.

(d) A city or county may use the proceeds of special obligation bonds or any uncommitted funds derived from sources set forth in this section to pay the bond project costs as defined in K.S.A. 2017 Supp. 12-17,162, and amendments thereto, to implement the STAR bond project plan.

(e) With respect to a STAR bond project district established prior to January 1, 2003, for which, prior to January 1, 2003, the secretary made a finding as provided in subsection (a) that a STAR bond project would create a major tourism area for the state, such special obligation bonds shall be payable both as to principal and interest, from a pledge of all of the revenue from any transient guest, state and local sales and use taxes collected from taxpayers as provided in subsection (a) whether or not revenues from such taxes are received by the city.

Sec. 13. K.S.A. 2017 Supp. 79-32,160a is hereby amended to read as follows: 79-32,160a. (a) For taxable years commencing after December 31, 1999, and before January 1, 2012, any taxpayer who shall invest in a qualified business facility, as defined in ~~subsection (b)~~ of K.S.A. 79-32,154**(b)**, and amendments thereto, and effective for tax years commencing after December 31, 2010, and before January 1, 2012, located in an area other than a metropolitan county as defined in either K.S.A. 2017 Supp. 74-50,114 or 74-50,211, and amendments thereto, and also meets the definition of a business in ~~subsection (b)~~ of K.S.A. 74-50,114**(b)**, and amendments thereto, shall be allowed a credit for ~~such~~ the investment, in an amount determined

under subsection (b) or (c), as the case requires, against the tax imposed by the Kansas income tax act or where the qualified business facility is the principal place from which the trade or business of the taxpayer is directed or managed and the facility has facilitated the creation of at least 20 new full-time positions, against the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or 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, for the taxable year during which commencement of commercial operations, as defined in ~~subsection (f) of~~ K.S.A. 79-32,154(f), and amendments thereto, occurs at ~~such~~ the qualified business facility. In the case of a taxpayer who meets the definition of a manufacturing business in ~~subsection (d) of~~ K.S.A. 74-50,114(d), and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under ~~subsection (d) of~~ K.S.A. 79-32,154(d), and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds two. In the case of a taxpayer who meets the definition of a nonmanufacturing business in ~~subsection (f) of~~ K.S.A. 74-50,114(f), and amendments thereto, no credit shall be allowed under this section unless the number of qualified business facility employees, as determined under ~~subsection (d) of~~ K.S.A. 79-32,154(d), and amendments thereto, engaged or maintained in employment at the qualified business facility as a direct result of the investment by the taxpayer for the taxable year for which the credit is claimed equals or exceeds five. Where an employee performs services for the taxpayer outside the qualified business facility, the employee shall be considered engaged or maintained in employment at the qualified business facility if: (1) The

employee's service performed outside the qualified business facility is incidental to the employee's service inside the qualified business facility; or (2) the base of operations or, the place from which the service is directed or controlled, is at the qualified business facility.

(b) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility which is located in a designated nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, 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, for the taxable year for which ~~such the~~ credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of ~~such the~~ tax. ~~Such~~ The portion shall be an amount equal to the sum of the following:

(1) Two thousand five hundred dollars for each qualified business facility employee determined under K.S.A. 79-32,154, and amendments thereto; plus

(2) one thousand dollars for each \$100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment, as determined under K.S.A. 79-32,154, and amendments thereto.

(c) The credit allowed by subsection (a) for any taxpayer who invests in a qualified business facility, which is not located in a nonmetropolitan region established under K.S.A. 74-50,116, and amendments thereto, and effective for tax years commencing after December 31, 2010, and before January 1, 2012, located in an area other than a metropolitan county as defined

in either K.S.A. 2017 Supp. 74-50,114 or 74-50,211, and amendments thereto, and which also meets the definition of business in ~~subsection (b)~~ of K.S.A. 74-50,114**(b)**, and amendments thereto, on or after the effective date of this act, shall be a portion of the income tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, 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, for the taxable year for which ~~such~~ the credit is allowed, but in the case where the qualified business facility investment was made prior to January 1, 1996, not in excess of 50% of ~~such~~ the tax. ~~Such~~ The portion shall be an amount equal to the sum of the following:

(1) One thousand five hundred dollars for each qualified business facility employee as determined under K.S.A. 79-32,154, and amendments thereto; and

(2) one thousand dollars for each \$100,000, or major fraction thereof, which shall be deemed to be 51% or more, in qualified business facility investment as determined under K.S.A. 79-32,154, and amendments thereto.

(d) The credit allowed by subsection (a) for each qualified business facility employee and for qualified business facility investment shall be a one-time credit. If the amount of the credit allowed under subsection (a) exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income, the premium tax and 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, for the taxable year, or in the case where the qualified

business facility investment was made prior to January 1, 1996, 50% of ~~such the~~ tax imposed upon the amount which exceeds ~~such the~~ tax liability or ~~such the~~ portion thereof may be carried over for credit in the same manner in the succeeding taxable years until the total amount of ~~such the~~ credit is used. Except that, before the credit is allowed, a taxpayer, who meets the definition of a manufacturing business in ~~subsection (d) of~~ K.S.A. 74-50,114(d), and amendments thereto, shall recertify annually that the net increase of a minimum of two qualified business facility employees has continued to be maintained and a taxpayer, who meets the definition of a nonmanufacturing business in ~~subsection (f) of~~ K.S.A. 74-50,114(f), and amendments thereto, shall recertify annually that the net increase of a minimum of five qualified business employees has continued to be maintained.

(e) Notwithstanding the foregoing provisions of this section, and except as otherwise provided in this subsection, any taxpayer qualified and certified under the provisions of K.S.A. 74-50,131, and amendments thereto; which, prior to making a commitment to invest in a qualified Kansas business, has filed a certificate of intent to invest in a qualified business facility in a form satisfactory to the secretary of commerce; and that has received written approval from the secretary of commerce for participation and has participated, during the tax year for which the exemption is claimed, in the Kansas industrial training, Kansas industrial retraining or the state of Kansas investments in lifelong learning program or is eligible for the tax credit established in K.S.A. 74-50,132, and amendments thereto, shall be entitled to a credit in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2) without regard to the number of qualified business facility employees engaged or maintained in employment at the qualified

business facility. For tax years beginning on or after January 1, 2012, for a qualified business facility investment in Douglas, Johnson, Sedgwick, Shawnee or Wyandotte counties, ~~such the~~ credit shall be in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$1,000,000. Any taxpayer who has filed a certificate of intent to invest in a qualified business facility pursuant to this subsection in Douglas, Johnson, Sedgwick, Shawnee or Wyandotte county prior to December 31, 2011, and commences investments in a qualified business facility prior to December 31, 2013, may claim credits under K.S.A. 74-50,131, 74-50,132 and ~~subsection (e) of 79-32,160a(e)~~, and amendments thereto, in an amount equal to 10% of that portion of the qualified business facility investment which exceeds \$50,000. Timing modifications may be authorized at the discretion of the secretary of commerce and the secretary of revenue during the transition period. The credit allowed by this subsection shall be a one-time credit. If the amount thereof exceeds the tax imposed by the Kansas income tax act on the taxpayer's Kansas taxable income or the premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as measured by net income of financial institutions imposed pursuant to article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, for the taxable year, the amount thereof which exceeds ~~such~~ the tax liability may be carried forward for credit in the succeeding taxable year or years until the total amount of the tax credit is used, except that no ~~such~~ tax credit shall be carried forward for deduction after the 16th taxable year succeeding the taxable year in which ~~such the~~ credit initially was claimed, except as provided by subsection (f), and no carryforward shall be allowed for deduction in any succeeding taxable year unless the taxpayer certifies under oath that the taxpayer continues to meet the requirements of K.S.A. 74-50,131, and amendments thereto, and

this act. In no event shall any credit allowed under this section that expired during any taxable year prior to the taxable year commencing January 1, 2011, be revived under the provisions of this act.

(f) On and after January 1, 2018, for taxpayers who have initially claimed a credit as permitted by subsection (e) prior to January 1, 2018, and whose tax credit as permitted by subsection (e) remains unused, 25% of the amount of the tax credit that remains unused at the end of the 16th taxable year succeeding the taxable year in which the credit initially was claimed may be carried forward for credit against the taxpayer's tax liability in the succeeding tax year or years until the 25th taxable year succeeding the taxable year in which the credit initially was claimed. In any one tax year, the amount of the tax credit allowable against the taxpayer's tax liability shall not exceed 10% of the total tax credit amount that remained unused as reduced and initially made available for use by the taxpayer pursuant to this subsection. No credit carryforward shall be allowed in any succeeding taxable year unless the taxpayer certifies under oath that the taxpayer continues to meet the requirements of K.S.A. 74-50,131, and amendments thereto, and this act. No credit carryforward shall be allowed after the 25th taxable year succeeding the taxable year in which the credit was initially claimed. In no event shall any tax credit that expired prior to January 1, 2018, be revived under the provisions of this subsection.

(g) For tax years commencing after December 31, 2005, any taxpayer claiming credits pursuant to this section, as a condition for claiming and qualifying for ~~such~~ the credits, shall provide information pursuant to K.S.A. 2017 Supp. 79-32,243, and amendments thereto, as part of the tax return in which ~~such~~ the credits are claimed. ~~Such~~ The credits shall not be denied solely on the basis of the contents of the information provided by the taxpayer pursuant to K.S.A.

2017 Supp. 79-32,243, and amendments thereto.

~~(g)~~ (h) This section and K.S.A. 79-32,160b, and amendments thereto, shall be part of and supplemental to the job expansion and investment credit act of 1976, and amendments thereto.

Sec. 14. K.S.A. 2017 Supp. 12-17,169 and 79-32,160a are hereby repealed.";

And by renumbering the remaining section accordingly;

On page 1, in the title, in line 1, by striking all after "concerning"; by striking all in line 2; in line 3, by striking all before the period and inserting "economic development; relating to tax credits for investments in businesses in rural areas, enacting the ad astra act; STAR bonds, state contribution to bond payment; high performance incentive program, tax credit availability extended for certain qualified companies; amending K.S.A. 2017 Supp. 12-17,169 and 79-32,160a and repealing the existing sections";

And your committee on conference recommends the adoption of this report.

Conferees on part of House

Conferees on part of Senate