

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 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~~; establishing the attracting powerful economic
11 expansion payroll incentive fund and the attracting powerful economic
12 expansion new employee training and education fund; amending
13 K.S.A. 2021 Supp. 79-3606 and repealing the existing section.
14

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

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

18 (b) For purposes of the attracting powerful economic expansion act:

19 (1) "Act" means the attracting powerful economic expansion act,
20 sections 1 through 11, and amendments thereto.

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

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

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

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

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

34 (B) the qualified firm enters into a written agreement that provides
35 either party with legally enforceable remedies if the agreement is
36 breached.

Proposed Amendment
Senate Committee on Commerce
1/25/2022

Removes 50% property tax exemption

Prepared by Charles Reimer
Office of Revisor of Statutes

1 requirements of this act may be eligible for the following incentives as
2 approved by the secretary:

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

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

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

and

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

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

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

19 (1) Submit an application to the secretary in the form and manner
20 prescribed by the secretary and including all information as required by the
21 secretary;

22 (2) if requested by the secretary, prior to making a commitment to
23 invest in a qualified business facility, submit a certificate of intent to invest
24 in the qualified business facility to the secretary in the form and manner
25 required by the secretary, including, if requested by the secretary, a date
26 investment will commence;

27 (3) commit to a qualified business investment of at least
28 \$1,000,000,000 in the qualified business facility to be completed within
29 five years of the commitment to invest on such date specified in the
30 agreement pursuant to paragraph (5);

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

36 (5) if the application is approved by the secretary, enter into a binding
37 agreement with the secretary with such terms and conditions as required
38 by the secretary and including the commitments required by this act. The
39 agreement shall be entered into before any benefits may be provided under
40 this act;

41 (6) obtain and submit a bond to the secretary if required as follows:
42 The secretary shall determine a minimum investment grade rating
43 requirement for each project of a qualified firm seeking benefits under this

1 act. In determining the minimum investment grade rating, the secretary
 2 shall consider the aspects of the qualified firm and the qualified business
 3 facility or project and shall consult ratings from three nationally
 4 recognized rating agencies selected by the secretary that provide
 5 investment grade ratings. A qualifying firm or qualifying business facility
 6 that does not meet the minimum investment grade rating determined by the
 7 secretary shall obtain and submit a bond in an amount, as determined by
 8 the secretary, of the costs associated with the primary construction of the
 9 building or buildings of the qualified business facility to a degree of
 10 completion specified by the secretary. The bond shall be paid to the state
 11 if, in the judgment of the secretary, the qualified business facility has not
 12 been constructed to the degree specified; and

13 (7) commit to repayment of the amount of all benefits received under
 14 this act exceeding payment of the bond submitted pursuant to paragraph
 15 (6), in the event that the requirements of this act, rules and regulations of
 16 the secretary pursuant to this act or the terms and conditions of the
 17 agreement pursuant to paragraph (5) are not met.

18 (d) A qualified supplier, that meets the requirements of paragraphs (1)
 19 and (2), as determined by the secretary, may be eligible for the incentives
 20 listed in subsection (b)(1), (3), ~~(4)~~ or (5) or a partial retention of payroll
 21 withholding taxes for employees as provided by section 4, and
 22 amendments thereto, upon designation by a qualified firm as eligible for
 23 incentives pursuant to paragraph (1). No benefits under sections 4 or 7
 24 shall be awarded to the qualified supplier until the commencement of such
 25 qualified firm's operations at the qualified business facility, as determined
 26 by the secretary. If the qualified business facility fails to commence
 27 operations as required by subsection (c)(4), all incentives that may have
 28 been awarded to the qualified supplier under this act shall be forfeited and
 29 the qualified supplier shall cease to be eligible for further benefits until the
 30 requirements of this act are met with respect to the same qualified firm that
 31 has entered into a new agreement with the secretary or a different qualified
 32 firm. To be eligible to receive benefits, a qualified supplier shall meet the
 33 requirements of this act, including any requirements or provisions specific
 34 to each such incentive, and any rules and regulations of the secretary
 35 pursuant to this act and shall:

36 (1) Be selected by the qualified firm as a qualified supplier eligible to
 37 receive incentives under this act and identified to the secretary of
 38 commerce. Not more than five qualified suppliers may be selected by any
 39 one qualified firm. Such selection shall be effective for a period of five
 40 years or the time period that an incentive under this act has been approved
 41 for the qualified supplier by the secretary. The secretary may specify a
 42 lesser period;

43 (2) within each period of one year for which incentives may be

Deletion

1 accounts and reports issued pursuant to vouchers approved by the
2 secretary of commerce or the secretary's designee.

3 (e) No reimbursement shall be issued unless the qualified firm or the
4 qualified supplier has been certified by the secretary, as provided in section
5 2, and amendments thereto, as meeting all requirements of this act, any
6 rules and regulations of the secretary and the agreement executed pursuant
7 to section 2, and amendments thereto.

8 New Sec. 8. There is hereby established in the state treasury the
9 attracting powerful economic expansion new employee training and
10 education fund to be administered by the secretary of commerce. All
11 moneys credited to the attracting powerful economic expansion new
12 employee training and education fund shall be used by the Kansas
13 department of commerce only for purposes related to reimbursement of
14 qualified firms and qualified suppliers for training and education eligible
15 expenses pursuant to the provisions of sections 2 and 7, and amendments
16 thereto. All expenditures from the attracting powerful economic expansion
17 new employee training and education fund shall be made in accordance
18 with appropriation acts upon warrants of the director of accounts and
19 reports issued pursuant to vouchers approved by the secretary of
20 commerce or the secretary's designee.

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

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

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

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

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

- 39 ~~(A) Advanced manufacturing;~~
- 40 ~~(B) aerospace;~~
- 41 ~~(C) distribution, logistics and transportation;~~
- 42 ~~(D) food and agriculture; or~~
- 43 ~~(E) professional and technical services.~~

<p>Renumber</p> <p>Correct internal citations as necessary</p>
--

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

4 ~~(3) "Qualified firm" or "qualified supplier" means a "qualified firm"~~
5 ~~or a "qualified supplier" as defined in section 1, and amendments thereto,~~
6 ~~that has met and is in compliance with the requirements of section 2, and~~
7 ~~amendments thereto, including, with respect to a qualified firm, the~~
8 ~~requirement of investment of at least \$1,000,000,000 over a period of five~~
9 ~~years in the new manufacturing property or new headquarters property~~
10 ~~located in a foreign trade zone program.~~

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

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

21 (2) Qualified suppliers shall be eligible commencing on the date that
22 the qualified firm selected the qualified supplier for benefit eligibility
23 pursuant to section 2, and amendments thereto.

24 (c) To be eligible to receive the sales tax exemption, the qualified
25 firm or qualified supplier shall have been approved by and entered into an
26 agreement with the secretary for a qualified investment in a qualified
27 business facility of at least \$1,000,000,000 pursuant to the requirements of
28 sections 2 and 3, and amendments thereto. The secretary of commerce
29 shall provide notice to the secretary of revenue regarding an approval of a
30 sales tax exemption under this section. The sales tax exemption shall be
31 valid until construction of the qualified business facility has been
32 completed or the date specified for completion of the qualified business
33 facility in the agreement executed pursuant to section 2, and amendments
34 thereto, whichever occurs first. No sales tax exemption shall be issued by
35 the secretary of revenue unless the qualified firm or the qualified supplier
36 has been certified by the secretary of commerce, as provided in section 2,
37 and amendments thereto, as meeting all requirements of this act, the rules
38 and regulations of the secretary, if any, and the agreement executed
39 pursuant to section 2, and amendments thereto.

40 (d) A sales tax exemption shall be revoked by the secretary of
41 revenue upon notification by the secretary of commerce that the qualified
42 firm or qualified supplier has been disapproved by the secretary of
43 commerce.