

SENATE BILL No. 314

By Committee on Ways and Means

3-12

9 AN ACT creating the special economic revitalization act.
10
11 *Be it enacted by the Legislature of the State of Kansas:*
12 Section 1. (a) As used in this section:
13 (1) “Eligible establishment” means a business that:
14 (A) Has at least \$100,000,000 in existing annual gross compensation
15 paid to jobs located in Kansas, according to reports filed with the secretary
16 of labor, for the previous three years;
17 (B) currently has an average annual gross compensation of at least
18 \$50,000 paid per existing employee;
19 (C) currently has at least \$250,000,000 total investment in real and
20 tangible personal property located in Kansas; and
21 (D) is described by the North American industrial classification code
22 number 326211, tire manufacturing.
23 (2) “Eligible project” means a project (A) undertaken by an eligible
24 establishment relating to the development of a new or improved business
25 component, product or process, and may include, but is not limited to,
26 product development and design, manufacturing, improvement, replace-
27 ment or acquisition of real or personal property and modernization and
28 retooling of existing property in Kansas, for which (B) the eligible estab-
29 lishment intends to invest not less than \$125,000,000 for phase one of
30 such project, and not less than \$125,000,000 for phase two of such project,
31 which amount shall be in addition to any amount invested for phase one
32 and shall be invested not more than six years from the effective date of
33 this section, or not more than six years from the date the eligible estab-
34 lishment enters into an agreement for benefits with respect to phase one
35 of such project with the secretary of commerce pursuant to this section,
36 whichever is later.
37 (3) “Gross compensation” means wages and benefits paid to or on
38 behalf of employees receiving wages.
39 (4) “Invest” or “investment” for the purpose of determining the eli-
40 gibility of an establishment for the incentive payments created pursuant
41 to this section, means an amount not less than \$125,000,000 for phase
42 one of an eligible project as designated by the establishment, and an
43 amount not less than \$125,000,000 for phase two of an eligible project as

1 designated by the establishment, which amount shall be in addition to
2 any amount designated for phase one of such eligible project. Such in-
3 vestments shall be certified by the secretary of commerce. The total in-
4 vestment in an eligible project for both phase one and phase two shall be
5 an amount not less than \$250,000,000. An eligible establishment shall
6 enter into separate agreements with the secretary for each phase of an
7 eligible project. An eligible establishment shall designate investments for
8 phase one of an eligible project prior to designating any investments for
9 phase two of such project, but such establishment may enter into an
10 agreement for benefits for phase two of such project prior to the com-
11 pletion of phase one. Any investment for modernization or retooling that
12 is made on or after January 1, 2008, may be included in calculating the
13 investment for phase one of an eligible project.

14 (5) "Secretary" means the secretary of commerce.

15 (b) An eligible establishment proposing to undertake an eligible pro-
16 ject may apply to the secretary to enter into an agreement for benefits
17 under this section. Such application shall include evidence that the ap-
18 plicant is an eligible establishment, and a detailed description of the eli-
19 gible project.

20 (c) Upon receipt of an application described in subsection (b), if the
21 secretary finds that the application is from an eligible establishment and
22 that the project constitutes an eligible project, the secretary may enter
23 into an agreement with the eligible establishment for benefits under this
24 section. Such agreement for benefits shall be subject to review and ap-
25 proval by the state finance council created by K.S.A. 75-3708, and amend-
26 ments thereto. The agreement shall commit the secretary to request that
27 the Kansas development finance authority issue bonds pursuant to the
28 Kansas development finance authority act, K.S.A. 74-8901 et seq., and
29 amendments thereto, to finance the eligible project for the benefit of the
30 eligible establishment in an aggregate principal amount not to exceed
31 \$18,750,000 for phase one of the eligible project, and in an aggregate
32 principal amount not to exceed \$18,750,000 for phase two of the eligible
33 project, plus costs of issuance, costs of credit enhancement, reserve funds
34 and capitalized interest. The agreement shall commit the eligible estab-
35 lishment to pay the principal and interest on such bonds, except that
36 during the period from the issuance of such bonds through the maturity
37 of such obligations, but not to exceed 20 years, revenue realized from
38 withholding upon Kansas wages paid by the eligible establishment pur-
39 suant to K.S.A. 79-3294 et seq., and amendments thereto, which is nec-
40 essary to pay the principal and interest on such obligations shall be cred-
41 ited to the special economic revitalization fund created in subsection (f),
42 and shall be transferred by the state treasurer to pay principal and interest
43 on such obligations as provided by law. The agreement shall further spe-

1 cifically provide that if the revenue from the withholding upon Kansas
2 wages is insufficient to pay principal and interest on the obligations, the
3 eligible establishment shall remain obligated to make such payments. The
4 terms and conditions with respect to the obligations shall be set forth in
5 the agreement, or in the financing documents relating to the issuance of
6 the bonds. In the event the eligible establishment cancels the scope of
7 the eligible project approved by the secretary, the agreement shall pro-
8 vide that with respect to debt service, the eligible establishment shall
9 remain responsible for payment of the entire outstanding principal, as
10 well as any interest still outstanding, and no moneys remaining in the
11 special economic revitalization fund shall be made available for the pur-
12 pose of paying the remaining principal and interest portion of the eligible
13 establishment's debt service obligation.

14 (d) Income tax refunds and balances due resulting from withholding
15 upon Kansas wages paid by the eligible establishment pursuant to K.S.A.
16 79-3294 et seq., and amendments thereto, shall be reconciled on at least
17 an annual basis by a method defined in the agreement described in sub-
18 section (c).

19 (e) The Kansas development finance authority is hereby authorized
20 to issue obligations pursuant to the Kansas development finance authority
21 act, K.S.A. 74-8901 et seq., and amendments thereto, for the purpose of
22 financing the eligible project provided in subsection (c) in a principal
23 amount or amount specified in subsection (c). The maximum maturity of
24 bonds issued pursuant to this section shall be 20 years. Such obligations
25 shall be issued within 60 days from the date the secretary receives the
26 signed agreement required pursuant to subsection (c), or any date there-
27 after as mutually agreed to by the secretary and the eligible establishment.

28 (f) The state treasurer shall credit all revenue collected or received
29 from withholding upon Kansas wages paid by a taxpayer which is an eli-
30 gible establishment with respect to an eligible project as certified by the
31 secretary, to the special economic revitalization fund, which fund is
32 hereby created in the custody of the state treasurer, but shall not be a
33 part of the state general fund. Distributions from the special economic
34 revitalization fund shall be used to pay principal and interest on the bonds
35 authorized pursuant to this section, and shall not be subject to appropri-
36 ation. On or before the 10th day of each month, the director of accounts
37 and reports shall transfer from the state general fund to the special eco-
38 nomic revitalization fund interest earnings based on: (1) The average daily
39 balance of moneys in the special economic revitalization fund for the
40 preceding month; and (2) the net earnings of the pooled money invest-
41 ment portfolio for the preceding month. The provisions of this section
42 shall expire when all principal and interest on obligations issued for the
43 purpose of financing all or a portion of the costs of an eligible project has

1 been paid. Moneys credited to the special economic revitalization fund
2 in accordance with the foregoing provisions shall be distributed to or on
3 the order of the Kansas development finance authority to pay principal
4 and interest on bonds issued to finance an eligible project. The state
5 treasurer shall make such distributions on such dates as mutually agreed
6 to by the Kansas development finance authority, the paying agent for such
7 obligations and the state treasurer. The total of all distributions under
8 this section shall not exceed an amount determined to be sufficient to
9 pay the principal and interest on such bonds.

10 (g) The secretary may include provisions in the agreement described
11 in subsection (c) to reduce the amount of eligible tax credits allowed
12 pursuant to K.S.A. 79-32,160a, and amendments thereto, on the invest-
13 ment of the proceeds of the bonds issued under this section.

14 (h) Bonds issued under this section shall not be used to provide for
15 or to increase compensation packages, rewards, bonuses, pensions, en-
16 hanced retirement, stock options, buyouts or substantial severance pay or
17 other financial benefits to any chief executive officer, chief financial of-
18 ficer or any officers of the eligible establishment.

19 (i) The agreement described in subsection (c) shall include a provi-
20 sion requiring the eligible establishment to agree that: (1) The eligible
21 establishment shall be subject to post audit under the legislative post audit
22 act, K.S.A. 46-1101 et seq., and amendments thereto; (2) the eligible
23 establishment shall pay audit expenses; and (3) the eligible establishment
24 shall not limit access to information required under the legislative post
25 audit act, K.S.A. 46-1101 et seq., and amendments thereto.

26 (j) No new eligible project shall be approved for financing under the
27 provisions of this section on or after July 1, 2017.

28 Sec. 2. This act shall take effect and be in force from and after its
29 publication in the Kansas register.