

HOUSE BILL No. 2334

By Committee on Commerce, Labor and Economic Development

2-7

1 AN ACT concerning economic development; relating to the attracting
2 powerful economic expansion act; extending the deadlines for project
3 agreements under the act; enhancing incentives for qualified suppliers
4 by providing for up to 10% of refundable tax credits for up to 10 years
5 and increasing the training reimbursement to up to \$500,000 per year
6 for five years; adding an employee relocation reimbursement incentive
7 for qualified suppliers of up to \$250,000 per supplier per year; limiting
8 the corporate income tax rate reduction to only two rate reductions;
9 permitting qualified firms and qualified suppliers to participate in other
10 economic development programs for new projects; amending K.S.A.
11 2022 Supp. 74-50,312, 74-50,313, 74-50,317, 74-50,321, 74-50,322
12 and 74-50,323 and repealing the existing sections; also repealing
13 K.S.A. 2022 Supp. 74-50,324.
14

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

16 Section 1. K.S.A. 2022 Supp. 74-50,312 is hereby amended to read as
17 follows: 74-50,312. (a) There is hereby established the attracting powerful
18 economic expansion program to be administered by the secretary of
19 commerce. The purpose of the attracting powerful economic expansion
20 program is to attract large capital investments by businesses engaged in
21 specified industries in new business facilities and operations in Kansas, or
22 large capital investments in new national headquarters in Kansas by any
23 business, and to encourage the development of a Kansas-based supply
24 chain for such large enterprises.

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

29 (1) The investment tax credit pursuant to K.S.A. 2022 Supp. 74-
30 50,313, and amendments thereto;

31 (2) reimbursement of a percentage of total payroll, pursuant to K.S.A.
32 2022 Supp. 74-50,315 and 74-50,316, and amendments thereto;

33 (3) reimbursement of a percentage of eligible employee training and
34 education expense pursuant to K.S.A. 2022 Supp. 74-50,317 and 74-
35 50,318, and amendments thereto;

36 (4) a sales tax exemption for construction costs of the qualified

1 business facility pursuant to K.S.A. 79-3606, and amendments thereto, and
2 K.S.A. 2022 Supp. 74-50,319, and amendments thereto; and

3 (5) reimbursement of a percentage of relocation expenses and
4 incentives for relocation of employees to Kansas pursuant to K.S.A. 2022
5 Supp. 74-50,322 and 74-50,323, and amendments thereto.

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

10 (1) Submit an application to the secretary in the form and manner
11 ~~prescribed by the secretary~~ and including all information as required by the
12 secretary;

13 (2) if requested by the secretary, prior to making a commitment to
14 invest in a qualified business facility, submit a certificate of intent to invest
15 in the qualified business facility to the secretary in the form and manner
16 required by the secretary, including, if requested by the secretary, a date
17 investment will commence;

18 (3) commit to a qualified business investment of at least
19 \$1,000,000,000 in the qualified business facility to be completed within
20 five years of the commitment to invest on such date specified in the
21 agreement pursuant to paragraph (5);

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

27 (5) if the application is approved by the secretary, enter into a binding
28 agreement with the secretary with such terms and conditions as required
29 by the secretary and including the commitments required by this act. The
30 agreement shall be entered into before any benefits may be provided under
31 this act. The agreement shall be subject to the approval of the state finance
32 council as provided in subsection (e). The secretary shall not enter into an
33 agreement with more than one qualified firm in calendar year 2022 and
34 shall not enter into an agreement with more than one qualified firm in
35 calendar year 2023. *The secretary shall not enter into an agreement with*
36 *more than one qualified firm in calendar year 2024.* The secretary shall
37 not enter into an agreement with any qualified firm after December 31,
38 ~~2023~~ 2024 and shall not enter into an agreement with any qualified
39 supplier after May 1, 2025;

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

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

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

20 (d) A qualified supplier, that meets the requirements of paragraphs (1)
21 and (2), as determined by the secretary, may be eligible for the incentives
22 listed in subsection (b)(1), (3) or (4) or a partial retention of payroll
23 withholding taxes for employees as provided by K.S.A. 2022 Supp. 74-
24 50,314, and amendments thereto, upon designation by a qualified firm as
25 eligible for incentives pursuant to paragraph (1). No benefits under K.S.A.
26 2022 Supp. 74-50,314 or 74-50,317, and amendments thereto, shall be
27 awarded to the qualified supplier until the commencement of such
28 qualified firm's operations at the qualified business facility, as determined
29 by the secretary. If the qualified business facility fails to commence
30 operations as required by subsection (c)(4), all incentives that may have
31 been awarded to the qualified supplier under this act shall be forfeited and
32 the qualified supplier shall cease to be eligible for further benefits until the
33 requirements of this act are met with respect to the same qualified firm that
34 has entered into a new agreement with the secretary or a different qualified
35 firm. To be eligible to receive benefits, a qualified supplier shall meet the
36 requirements of this act, including any requirements or provisions specific
37 to each such incentive, and any rules and regulations of the secretary
38 pursuant to this act and shall:

39 (1) Be selected by the qualified firm as a qualified supplier eligible to
40 receive incentives under this act and identified to the secretary of
41 commerce. Not more than five qualified suppliers may be selected by any
42 one qualified firm. Such selection shall not be changed unless a qualified
43 supplier selected by the qualified firm breaches the terms of an agreement

1 under this act and is disqualified by the secretary. In such case, the
2 qualified firm may select a replacement qualified supplier;

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

9 (3) submit an application to the secretary, in the form and manner as
10 designated by the secretary, and provide all information requested by the
11 secretary, including, but not limited to, evidence establishing sales of more
12 than \$10,000,000 to the qualified firm for the qualified business facility as
13 required by paragraph (2). The qualified firm shall submit evidence to the
14 secretary as requested regarding the date operations at the qualified
15 business facility commenced and the sales to the qualified business facility
16 by the qualified supplier;

17 (4) if the application is approved by the secretary, enter into a binding
18 agreement with the secretary with such terms and conditions as required
19 by the secretary and the commitments required by this act, including, but
20 not limited to, providing the secretary with evidence showing the amount
21 of sales to the qualified firm for each year that an incentive is claimed. The
22 agreement shall be entered into before any benefits may be provided under
23 this act. The agreement shall be subject to the approval of the state finance
24 council, as provided in subsection (e); and

25 (5) commit to repayment of the amount of all benefits received under
26 this act in the event the qualified supplier breaches the terms and
27 conditions of the agreement entered into pursuant to paragraph (4).

28 (e) Any agreement with a qualified firm or qualified supplier pursuant
29 to this section shall not be effective unless reviewed and approved by the
30 affirmative vote of the governor and by a majority vote of the legislative
31 members of the state finance council prior to the finalization of the
32 agreement by the secretary. If the state finance council does not approve
33 the agreement, the secretary shall not enter into the agreement, but may
34 negotiate further with the firm and submit another proposed agreement for
35 review and approval by the council, until an agreement approved by the
36 council is finally executed or the secretary or the firm discontinues
37 negotiations. The state finance council shall also affirmatively approve,
38 prior to the finalization of an agreement by the secretary, any increase of
39 the total payroll benefit percentage, provided pursuant to K.S.A. 2022
40 Supp. 74-50,315, and amendments thereto, to be allowed a qualified firm
41 above 7.5%, or such percentage greater than 7.5% shall not be effective.
42 Prior to the finalization of an agreement by the secretary, the state finance
43 council shall also affirmatively approve any additional portions or

1 installments of the investment tax credit as provided by K.S.A. 2022 Supp.
2 74-50,315(h), and amendments thereto, otherwise such increase in the
3 portions or installments shall not be effective. This matter is hereby
4 characterized as a matter of legislative delegation and subject to the
5 guidelines prescribed in K.S.A. 75-3711c, and amendments thereto, except
6 that the state finance council is expressly granted the authority to act on
7 this matter at any time, including when the legislature is in session. The
8 secretary of commerce or any officer or employee of the department of
9 commerce shall appear before the state finance council to provide
10 testimony if requested by the state finance council. Notwithstanding the
11 provisions of the Kansas open meetings act, any review, testimony or
12 discussion of a proposed agreement shall not be open to the public. A vote
13 on approval of an agreement shall be made in open session. However, the
14 details of a proposed agreement need not be disclosed publicly. With
15 respect to the state finance council, the proposed agreement, and any
16 associated documentation or testimony pertaining to the proposed
17 agreement, shall be confidential and shall not be subject to the Kansas
18 open records act. The fact that a proposed agreement or its terms or
19 associated documents or testimony has been referenced or reviewed by the
20 state finance council shall not make the agreement or associated
21 documents or testimony subject to the Kansas open records act with
22 respect to any other agency. The provisions of this paragraph providing for
23 confidentiality of records shall expire on July 1, 2027, unless the
24 legislature acts to reenact such provisions pursuant to K.S.A. 45-229, and
25 amendments thereto.

26 (f) A qualified firm or qualified supplier that is approved by the
27 secretary for incentives under this act shall not be, *with respect to the*
28 *project for which such incentives have been approved*, eligible for
29 participation in any other economic development program or fund
30 administered by the secretary of commerce, including, but not limited to,
31 the STAR bond program, the promoting employment across Kansas
32 program, the high performance incentive program or the Kansas industrial
33 training or Kansas industrial retraining programs.

34 (g) As a condition of receiving an incentive under this act, a qualified
35 firm or qualified supplier shall agree to cooperate with any audit
36 undertaken by the secretary of revenue as provided by subsection (i) and to
37 provide the secretary of commerce:

38 (1) Information required for publication in the economic development
39 incentive program information database pursuant to K.S.A. 2022 Supp. 74-
40 50,226, and amendments thereto;

41 (2) information reasonably required for the secretary's report pursuant
42 to K.S.A. 2022 Supp. 74-50,320, and amendments thereto;

43 (3) information required by the secretary of commerce or the

1 secretary of revenue pursuant to subsections (h) and (i); and

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

4 (h) (1) The secretary shall conduct an annual review of the activities
5 undertaken by a qualified firm or qualified supplier to ensure that the
6 qualified firm or qualified supplier remains in good standing with the state
7 and in compliance with the provisions of this act, any rules and regulations
8 adopted by the secretary ~~with respect to this act~~ *under subsection (l)* and
9 any agreement ~~entered into~~ *made* pursuant to this act and continues to
10 meet the requirements for ~~the benefits provided~~ under this act. The
11 secretary of commerce shall certify annually to the secretary of revenue
12 that the qualified firm or qualified supplier meets the criteria for
13 designation as a qualified firm or qualified supplier and is eligible for such
14 benefits. The secretary of commerce ~~may obtain~~ *shall be provided* any and
15 all information reasonably necessary to determine such eligibility *by the*
16 *qualified firm or qualified supplier*. Such information shall be confidential
17 to the same extent as information provided to the secretary to determine
18 eligibility pursuant to K.S.A. 74-50,131, and amendments thereto.

19 (2) Confidential financial information, any trade secret or other
20 information that, if known, would place the qualified firm at a
21 disadvantage in the marketplace or would significantly interfere with the
22 purposes of this act in the judgment of the secretary that is obtained under
23 this section shall not be subject to disclosure pursuant to K.S.A. 45-215 et
24 seq., and amendments thereto, but shall upon request be made available to
25 the legislative post audit division. The provisions of this paragraph shall
26 expire on July 1, 2027, unless the legislature reviews and reenacts such
27 provisions pursuant to K.S.A. 45-229, and amendments thereto.

28 (i) The books and records concerning investments made, sales,
29 employment and wages of any employees for which the qualified firm,
30 qualified supplier or third party has retained any Kansas payroll
31 withholding taxes or any other financial, employee or other records that
32 pertain to eligibility for benefits or compliance with the requirements of
33 this act shall be available for inspection by the secretary or the secretary's
34 duly authorized agents or employees during business hours on at least 10
35 days' prior written notice. ~~The secretary may request~~ *Upon request by the*
36 *secretary*, the department of revenue ~~to~~ *shall* audit the qualified firm or
37 qualified supplier, or a third party if applicable, for compliance with the
38 provisions of this act.

39 (j) The secretary of revenue, in consultation with the secretary of
40 commerce, shall develop a form that shall be completed annually by any
41 qualified firm or qualified supplier that received any tax benefit pursuant
42 to this section and K.S.A. 2022 Supp. 74-50,313 or 74-50,314, and
43 amendments thereto. Such form shall request, at a minimum, the

1 information required by K.S.A. 79-32,243(a)(1) through (a)(6), and
2 amendments thereto, and such other information as ~~shall~~ *may* reasonably
3 be required by the secretary of revenue and the secretary of commerce.
4 The contents of the completed form shall be confidential except as
5 provided in K.S.A. 79-3234, and amendments thereto.

6 (k) (1) In addition to the provisions of subsection (c)(7) and any other
7 repayment requirement pursuant to this act, as a condition of receiving
8 benefits under this act, a qualified firm that relocates its qualified business
9 facility operations outside this state in the 10th through the 15th year next
10 following the year the qualified firm entered into the agreement with the
11 secretary pursuant to subsection (c)(5), shall be subject to a benefit
12 repayment requirement to the state in the amount of:

13 (A) 100% of all benefits received if the relocation occurs in the 11th
14 year;

15 (B) 80% of all benefits received if the relocation occurs in the 12th
16 year;

17 (C) 60% of all benefits received if the relocation occurs in the 13th
18 year;

19 (D) 40% of all benefits received if the relocation occurs in the 14th
20 year; and

21 (E) 20% of all benefits received if the relocation occurs in the 15th
22 year.

23 (2) The amount due to the state shall be paid pursuant to a repayment
24 schedule and with interest as determined by the secretary and set forth in
25 the agreement pursuant to subsection (c)(5), ~~but in no event shall be paid~~
26 ~~in more than 10 years.~~ *The repayment schedule shall require that*
27 *repayment be completed within a period of not more than 10 years.*

28 (3) The benefit repayment requirement shall be waived if the
29 qualified firm sells the qualified business facility to another business and
30 the operations of the qualified business facility are substantially continued
31 in this state by such business, as determined by the secretary of commerce.

32 (l) The secretary of commerce or the secretary of revenue may adopt
33 rules and regulations for the implementation of this act.

34 Sec. 2. K.S.A. 2022 Supp. 74-50,313 is hereby amended to read as
35 follows: 74-50,313.(a) (1) For taxable years commencing after December
36 31, 2021, a qualified firm that makes a qualified business investment in a
37 qualified business facility and meets the requirements of K.S.A. 2022
38 Supp. 74-50,312, and amendments thereto, and of this section shall be
39 allowed a credit for such investment as provided by this section against the
40 tax imposed by the Kansas income tax act, the premium tax or privilege
41 fees imposed pursuant to K.S.A. 40-252, and amendments thereto, or the
42 privilege tax as measured by the net income of financial institutions
43 imposed pursuant to article 11 of chapter 79 of the Kansas Statutes

1 Annotated, and amendments thereto. The credit shall be earned by the
2 taxpayer each taxable year based on the amount of the qualified
3 investment made in that taxable year as further provided in this section.
4 The amount of the credit that is earned each taxable year shall not be
5 claimed by the taxpayer in the taxable year that such credit is earned but
6 shall be divided into 10 equal portions or installments. A $\frac{1}{10}$ portion or
7 installment shall be claimed by the qualified firm commencing with the
8 taxable year after the credit is earned and an equivalent amount of such
9 portion or installment, respectively, shall be claimed in each of the next
10 successive nine taxable years.

11 (2) The amount of the tax credit earned in a taxable year pursuant to
12 this subsection shall be up to 15%, at the discretion of the secretary, of the
13 amount of the qualified investment that is invested during such taxable
14 year. In determining such percentage, the secretary shall consider factors
15 including the extent of prospective new employment, the quality of new
16 jobs and wage or salary levels, the total amount of investment, the
17 potential for development of the industry in this state and the potential for
18 ancillary industry development and indirect economic development. The
19 secretary shall also consider factors pursuant to subsection (d). Such
20 percentage shall be set forth in the agreement pursuant to K.S.A. 2022
21 Supp. 74-50,312, and amendments thereto. The total qualified investment
22 shall be completed within five years commencing from the date specified
23 in such agreement. The total amount of the qualified investment shall be at
24 least \$1,000,000,000. The qualified firm shall repay to the state all tax
25 credits received if the total qualified investment is not completed.

26 (b) (1) For taxable years commencing after December 31, 2021, a
27 qualified supplier that makes a qualified investment and meets the
28 requirements of K.S.A. 2022 Supp. 74-50,312, and amendments thereto,
29 and of this section shall be allowed a credit for such investment as
30 provided by this section against the tax imposed by the Kansas income tax
31 act, the premium tax or privilege fees imposed pursuant to K.S.A. 40-252,
32 and amendments thereto, or the privilege tax as measured by the net
33 income of financial institutions imposed pursuant to article 11 of chapter
34 79 of the Kansas Statutes Annotated, and amendments thereto. The credit
35 shall be earned by the taxpayer for up to two *successive* calendar years
36 *commencing* from the date that the qualified supplier enters into the
37 agreement with the secretary of commerce pursuant to K.S.A. 2022 Supp.
38 74-50,312, and amendments thereto, unless all qualifying investment that
39 is intended by the qualified supplier is completed before this date. *The*
40 *credit shall be based on the amount of investment in each taxable year*
41 *within the two-calendar year period and shall be determined as provided*
42 *by paragraph (2) for each such taxable year.* The credit shall be taken in
43 ~~the earlier taxable year that would include either:~~

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

3 ~~(B) the tax year after the calendar year that the qualified supplier~~
4 ~~secretary determines completion of the tax credit eligible qualified~~
5 ~~investment by the qualified supplier.~~

6 (2) *For the taxable year commencing January 1, 2022, and ending*
7 *December 31, 2022, the amount of the tax credit shall be 5% for the first*
8 *\$50,000,000 in qualified investment and an additional 1% credit for each*
9 *additional \$10,000,000 in qualified investment up to a maximum of*
10 *\$100,000,000 in qualified investment. For the taxable year commencing*
11 *January 1, 2023, and all taxable years thereafter, the amount of the tax*
12 *credit shall be up to 10% of the qualified investment up to a maximum tax*
13 *credit of \$10,000,000. The amount of the credit that is earned shall be*
14 *divided into up to ten equal portions or installments. A ¹/₁₀ portion or*
15 *installment shall first be ~~claimed~~ credited to the qualified supplier*
16 *commencing with the time frame set forth in as provided by paragraph (1).*
17 ~~Such~~ *The remaining portions or installments shall be ~~claimed~~ credited to*
18 *the qualified supplier, one portion or installment per taxable year, in each*
19 *of the next successive ~~nine~~ taxable years until each portion or installment*
20 *has been credited.*

21 (3) Only the first five qualified suppliers designated by a qualified
22 firm pursuant to K.S.A. 2022 Supp. 74-50,312, and amendments thereto,
23 shall qualify for the credit unless a previously designated qualified
24 supplier breaches terms of an agreement with either the qualified firm or
25 department of commerce and is replaced by a succeeding qualified
26 supplier. The qualified supplier that serves as replacement shall be eligible
27 for the tax credit pursuant to this subsection.

28 (4) The qualified supplier shall repay to the state all tax credits
29 received if the total qualified investment is not completed as provided
30 pursuant to K.S.A. 2022 Supp. 74-50,312, and amendments thereto.

31 (c) The secretary of commerce shall set forth in the agreement *with a*
32 *qualified firm or qualified supplier* entered into pursuant to K.S.A. 2022
33 Supp. 74-50,312, and amendments thereto, a percentage of the earned tax
34 credit that may be refundable when claimed, as provided in subsection (a)
35 or (b). The percentage shall be determined as provided in subsection (d).
36 Such percentage of a tax credit installment may be refundable to such
37 taxpayer if the amount of the installment claimed for that taxable year
38 exceeds the taxpayer's tax liability for such year. The secretary shall set
39 forth in the agreement any additional provisions, if necessary, regarding
40 disposition of the earned tax credits. No earned tax credit shall be
41 refundable after the ~~tenth~~ *last* successive taxable year period that a portion
42 or installment of such credit may be claimed. An installment portion of an
43 earned tax credit that is not refunded shall be carried forward for

1 application first against the taxpayer's tax liability in the next successive
2 tax year or for refund, as the case may be, within the ~~ten~~ *successive* taxable
3 year period *that a portion or installment of the credit may be claimed*. An
4 installment portion of an earned tax credit that has not been applied against
5 the taxpayer's tax liability or refunded at the end of the ~~ten~~ *last*
6 successive taxable year period that installment portions of such earned tax
7 credit may be claimed shall be forfeited.

8 (d) The base percentage that may be refundable in each taxable year
9 of the ~~+~~⁺~~40~~ *portion or installment* of an earned tax credit that may be
10 claimed, as provided by subsection (a), shall be 50%. The secretary may
11 provide for an additional percentage that may be refundable up to 100% of
12 the total eligible earned credit. The secretary shall base the additional
13 percentage on the qualified firm *or qualified supplier* meeting specified
14 goals that shall be set forth in the agreement. Such goals shall include
15 targets for the:

16 (1) Creation of new jobs, including, *with respect to qualified firms*,
17 new jobs for suppliers;

18 (2) benefit to the local, regional or state economy, including the
19 development of suppliers *or ancillary businesses* in Kansas;

20 (3) amount of capital investment;

21 (4) benefit to the development of the qualified firm's industry in
22 Kansas;

23 (5) other measures or goals, if any, of the secretary consistent with the
24 purposes of this act; and

25 (6) employment, retention and attraction of employees to remain
26 residents of, or relocate to, Kansas.

27 (e) The qualified firm or qualified supplier shall meet the
28 requirements of this act, any rules and regulations of the secretary of
29 commerce under this act and the terms of the agreement to receive a credit
30 each year that a credit is earned or an installment portion of the earned
31 credit is claimed. No credit shall be issued by the secretary of revenue
32 unless the qualified firm or qualified supplier has been certified by the
33 secretary of commerce as eligible as provided by K.S.A. 2022 Supp. 74-
34 50,312, and amendments thereto, for each taxable year the credit is
35 claimed. The secretary of commerce shall provide such certifications to the
36 secretary of revenue.

37 (f) If the qualified firm or qualified supplier breaches the terms and
38 conditions of the agreement pursuant to K.S.A. 2022 Supp. 74-50,312, and
39 amendments thereto, the qualified firm or qualified supplier shall be liable
40 for repayment of the amount of the tax credits to the state as provided by
41 K.S.A. 2022 Supp. 74-50,312, and amendments thereto.

42 (g) As a condition for claiming credits pursuant to this section, any
43 qualified firm or qualified supplier shall provide information pursuant to

1 K.S.A. 79-32,243, and amendments thereto, as part of the tax return in
2 which such credits are claimed. Such credits shall not be denied solely on
3 the basis of the contents of the information provided by the qualified firm
4 pursuant to K.S.A. 79-32,243, and amendments thereto.

5 (h) Prior to finalization of an agreement pursuant to K.S.A. 2022
6 Supp. 74-50,312, and amendments thereto, the state finance council may
7 allow for a qualified firm or qualified supplier to be allowed to take one or
8 more additional portions or installments of the tax credit that such
9 qualified firm or qualified supplier is entitled pursuant to this subsection,
10 as provided in K.S.A. 2022 Supp. 74-50,312(e), and amendments thereto.
11 No additional portions or installments of the tax credit shall be allowed in
12 any taxable year unless the requested increase in the portions or
13 installments has been so reviewed and approved by the affirmative vote of
14 the governor and by a majority vote of the legislative members of the state
15 finance council. This matter is hereby characterized as a matter of
16 legislative delegation and subject to the guidelines prescribed in K.S.A.
17 75-3711c, and amendments thereto, except that the state finance council is
18 expressly granted the authority to act on this matter at any time, including
19 when the legislature is in session. Upon an affirmative vote, the qualified
20 firm or qualified supplier shall be allowed to take the additional portions
21 or installments of the tax credit approved by the state finance council in
22 the taxable year in which such portions or installments were approved, as
23 shall be set forth in the agreement pursuant to K.S.A. 2022 Supp. 74-
24 50,312, and amendments thereto. The portions or installments remaining
25 on such credit shall decrease accordingly in the event that additional
26 portions or installments are taken by a qualified firm or qualified supplier.

27 Sec. 3. K.S.A. 2022 Supp. 74-50,317 is hereby amended to read as
28 follows: 74-50,317. (a) On and after July 1, 2022, a qualified firm or a
29 qualified supplier that meets the requirements of K.S.A. 2022 Supp. 74-
30 50,312, and amendments thereto, and this section and that has entered into
31 an agreement with the secretary, as provided by K.S.A. 2022 Supp. 74-
32 50,312, and amendments thereto, may be eligible for reimbursement of up
33 to 50% of training and education eligible expenses for training or
34 education completed for new employees in each year for up to five
35 successive years, as determined by the secretary and as provided by this
36 section. The maximum amount of reimbursement paid to a qualified
37 supplier shall be ~~\$250,000~~ \$500,000 per year. The maximum amount of
38 reimbursement paid to a qualified firm shall be \$5,000,000 per year. In
39 determining the percentage, the number of successive years and the
40 maximum annual amount as limited by this subsection, the secretary shall,
41 at a minimum, consider the factors set forth in K.S.A. 2022 Supp. 74-
42 50,313(b) and (d), and amendments thereto, as applicable.

43 (b) (1) Qualified firms shall be eligible commencing with the year in

1 which the qualified firm enters into an agreement with the secretary, as
2 provided in K.S.A. 2022 Supp. 74-50,312, and amendments thereto,
3 commences construction of the qualified business facility or commences
4 commercial operations at the qualified business facility, as determined by
5 the secretary.

6 (2) Qualified suppliers shall be eligible commencing with the year in
7 which the qualified firm selected the qualified supplier for benefit
8 eligibility pursuant to K.S.A. 2022 Supp. 74-50,312, and amendments
9 thereto. Only training and education expenses for new employees
10 employed at a qualified business facility of the qualified supplier that is
11 located and operating in Kansas shall be eligible for reimbursement. A
12 qualified supplier shall not be awarded such benefits until the qualified
13 business facility of the qualified firm commences commercial operations.

14 (c) The qualified firm or qualified supplier shall submit an application
15 to the secretary in the form and manner required by the secretary and
16 provide all information requested by the secretary, as provided by K.S.A.
17 2022 Supp. 74-50,312, and amendments thereto. If approved by the
18 secretary, the qualified firm or qualified supplier shall enter into an
19 agreement with the secretary with such terms and conditions as may be
20 required by the secretary and commitments required by this act, as
21 provided pursuant to K.S.A. 2022 Supp. 74-50,312, and amendments
22 thereto. The agreement shall set forth the maximum amount of the
23 incentive that may be received each year, as limited by subsection (a), and
24 shall require an annual showing of eligibility, including evidence showing
25 the number of new hires and amount of eligible training and education
26 expense, for each year the incentive is claimed.

27 (d) Subject to appropriations therefor, reimbursement in the amount
28 approved by the secretary and pursuant to the terms of the agreement and
29 the limitations of subsection (a) shall be made by the secretary from the
30 attracting powerful economic expansion new employee training and
31 education fund established in K.S.A. 2022 Supp. 74-50,318, and
32 amendments thereto, in accordance with appropriation acts upon warrants
33 of the director of accounts and reports issued pursuant to vouchers
34 approved by the secretary of commerce or the secretary's designee.

35 (e) No reimbursement shall be issued unless the qualified firm or the
36 qualified supplier has been certified by the secretary, as provided in K.S.A.
37 2022 Supp. 74-50,312, and amendments thereto, as meeting all
38 requirements of this act, any rules and regulations of the secretary and the
39 agreement executed pursuant to K.S.A. 2022 Supp. 74-50,312, and
40 amendments thereto.

41 (f) If the qualified firm or qualified supplier breaches the terms and
42 conditions of the agreement pursuant to K.S.A. 2022 Supp. 74-50,312, and
43 amendments thereto, reimbursements shall be repaid to the state as

1 provided by K.S.A. 2022 Supp. 74-50,312, and amendments thereto.

2 Sec. 4. K.S.A. 2022 Supp. 74-50,321 is hereby amended to read as
3 follows: 74-50,321. (a) Commencing with fiscal year 2022, in any fiscal
4 year that a qualified firm enters into an agreement with the secretary of
5 commerce for the first time pursuant to K.S.A. 2022 Supp. 74-50,312, and
6 amendments thereto, and commences construction on a qualified business
7 facility under this act, the secretary of commerce shall certify such fact to
8 the secretary of revenue, the director of the budget and the director of
9 legislative research. Such certification shall be made when such fact is
10 known to the secretary, but in any event on or before June 30 of such fiscal
11 year. *The secretary of commerce shall make only two such certifications,*
12 *one for fiscal year 2022 and one for fiscal year 2023.*

13 (b) Upon receipt of such certification, the secretary of revenue shall
14 adjust the corporate income tax rate imposed pursuant to the provisions of
15 K.S.A. 79-32,110, and amendments thereto, to go into effect for the next
16 tax year by reducing the rate by 0.5%. The maximum reduction to be
17 applied for one taxable year shall be 0.5% regardless of the number of
18 eligible qualifying firms that may have satisfied the conditions of
19 subsection (a). *Only two such rate reductions shall be permitted. After two*
20 *rate reductions have been made as provided by this section, no further*
21 *rate reductions shall occur as a result of an agreement as provided by (a).*

22 (c) The rate reduction of 0.5% shall be applied to reduce the normal
23 tax on corporations imposed pursuant to K.S.A. 79-32,110, and
24 amendments thereto, until reduced to ~~0%~~ 3%.

25 (d) The secretary of revenue shall report any reduction in corporate
26 income tax rates pursuant to this section to the chairpersons of the senate
27 standing committees on assessment and taxation and commerce, the
28 chairpersons of the house of representatives standing committees on
29 commerce, labor and economic development and taxation and the
30 governor, and shall cause notice of any such reduction to be published in
31 the Kansas register prior to September 15 of the calendar year immediately
32 preceding the tax year in which such reduction takes effect.

33 Sec. 5. K.S.A. 2022 Supp. 74-50,322 is hereby amended to read as
34 follows: 74-50,322. (a) On and after July 1, 2022, a qualified firm *or*
35 *qualified supplier* that meets the requirements of this section and K.S.A.
36 2022 Supp. 74-50,312, and amendments thereto, and that has entered into
37 an agreement with the secretary, as provided by K.S.A. 2022 Supp. 74-
38 50,312, and amendments thereto, shall be eligible for annual
39 reimbursement of up to 50% of relocation incentives and expenses
40 provided by the qualified firm *or qualified supplier* to incentivize
41 employees who are not Kansas residents to relocate their primary
42 residence to this state and become Kansas residents. Reimbursement for
43 such eligible incentives and expenses shall not exceed an annual

1 reimbursement amount of \$1,000,000 to ~~the~~ a qualified firm and shall not
2 exceed an annual reimbursement amount of \$250,000 to a qualified
3 supplier, as determined by the secretary. Reimbursement for such eligible
4 incentives and expenses may be provided for up to ten successive years, as
5 determined by the secretary.

6 (b) The qualified firm or qualified supplier shall submit to the
7 secretary a Kansas residency incentive plan for which it will seek
8 reimbursement and the expected costs for each component of the plan. The
9 reimbursement percentage shall be subject to the qualified firm or
10 qualified supplier meeting goals for incentivizing employees to become
11 new Kansas residents as determined by the secretary. If the secretary
12 approves the plan, the qualified firm or qualified supplier and the secretary
13 shall enter into an agreement that requires the qualified firm or qualified
14 supplier to provide annual documentation of the relocation incentive
15 expenditures and the results of such expenditures to the secretary. No
16 reimbursement shall be made unless the secretary of commerce has
17 certified, for each year for which a reimbursement is claimed, that the
18 qualified firm or qualified supplier meets all requirements of this act, the
19 rules and regulations of the secretary and the agreements entered into
20 pursuant to this section and K.S.A. 2022 Supp. 74-50,312, and
21 amendments thereto.

22 (c) The qualified firm or qualified supplier shall remit to the state an
23 amount equal to the amount of benefits provided to the qualified firm or
24 qualified supplier pursuant to this section upon any breach by the qualified
25 firm or qualified supplier of the terms and conditions set forth in the
26 agreement entered into pursuant to this section or K.S.A. 2022 Supp. 74-
27 50,312, and amendments thereto. The agreement between the secretary of
28 commerce and the qualified firm or qualified supplier entered into
29 pursuant to this section and K.S.A. 2022 Supp. 74-50,312, and
30 amendments thereto, shall specify such repayment requirements in such
31 agreement.

32 (d) Subject to appropriations therefor, the allowable amount of
33 reimbursement shall be paid to the qualified firm or qualified supplier
34 from the attracting powerful economic expansion Kansas residency
35 incentive fund, established by K.S.A. 2022 Supp. 74-50,323, and
36 amendments thereto. No interest shall be allowed on any payment made to
37 a qualified firm or qualified supplier pursuant to this section.

38 Sec. 6. K.S.A. 2022 Supp. 74-50,323 is hereby amended to read as
39 follows: 74-50,323. There is hereby established in the state treasury the
40 attracting powerful economic expansion Kansas residency incentive fund
41 to be administered by the secretary of commerce. All moneys credited to
42 the attracting powerful economic expansion Kansas residency incentive
43 fund shall be used by the Kansas department of commerce for

1 reimbursement to qualified firms *or qualified suppliers* for expenses
2 incurred in a Kansas residency incentive plan for employees pursuant to
3 the provisions of K.S.A. 2022 Supp. 74-50,312 and 74-50,322, and
4 amendments thereto. All expenditures from the attracting powerful
5 economic expansion Kansas residency incentive fund shall be made in
6 accordance with appropriation acts upon warrants of the director of
7 accounts and reports issued pursuant to vouchers approved by the
8 secretary of commerce or the secretary's designee.

9 Sec. 7. K.S.A. 2022 Supp. 74-50,312, 74-50,313, 74-50,317, 74-
10 50,321, 74-50,322, 74-50,323 and 74-50,324 are hereby repealed.

11 Sec. 8. This act shall take effect and be in force from and after its
12 publication in the Kansas register.