

HOUSE BILL No. 2051

By Committee on Commerce, Labor and Economic Development

1-12

1 AN ACT concerning economic development; enacting the Kansas
2 innovation zone act; reinstating the Kansas enterprise zone act;
3 amending K.S.A. 2016 Supp. 79-32,160a and repealing the existing
4 section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 New Section 1. The provisions of sections 1 through 7, and
8 amendments thereto, shall be known and may be cited as the Kansas
9 innovation zone act.

10 New Sec. 2. As used in the Kansas innovation zone act:

11 (a) "Secretary" means the secretary of commerce.

12 (b) "Program" means the Kansas innovation zone program.

13 (c) "Business incubator" means a program sponsored, developed and
14 administered by an educational institution to develop and support new
15 business growth in industries targeted by the business incubator and within
16 the business incubator's innovation zone. A business incubator may
17 provide facilities and services including, without limitation, office space,
18 access to faculty expertise and faculty research, cooperation and
19 coordination with faculty in developing or accessing technology,
20 assistance and office space for commercialization, assistance with patent
21 applications, venture capital, or assistance with access to outside
22 academic, public or private industry expertise, funding, government
23 programs or coordination with existing private industry.

24 (d) "Educational institution" means a state educational institution as
25 defined in K.S.A. 76-711, and amendments thereto, or a municipal
26 university, college or community college established under the laws of this
27 state.

28 (e) "Eligible business incubator" means a business incubator that, as
29 determined by the secretary, meets the qualifications required by section
30 3(b), and amendments thereto, and any additional requirements established
31 by the secretary and is eligible to be selected for an innovation zone
32 program grant.

33 (f) "Innovation zone" means the area to which a business incubator's
34 business growth and support activities are targeted. The boundaries of a
35 business incubator's innovation zone shall be the boundaries of the county
36 in which the educational institution sponsoring the business incubator is

1 located.

2 (g) "Business headquarters" means a facility where principal officers
3 of the business are housed and from which direction, management or
4 administrative support for transactions is provided for a business.

5 (h) "Employee" means a person who is required to file a Kansas
6 income tax return and who is employed by a business to perform duties in
7 connection with the operation of the business on a regular, full-time basis.

8 New Sec. 3. (a) The secretary shall establish a Kansas innovation
9 zone program for the purpose of providing start-up funding in the form of
10 grants to business incubators that qualify and are selected by the secretary.
11 Business incubators created on or before July 1, 2017, shall not be eligible
12 for participation in the innovation zone program or to receive a grant.

13 (b) The secretary shall develop and administer the innovation zone
14 program grant application procedures and shall develop criteria for
15 consideration of applications, including the following requirements, which
16 must be met for eligibility:

17 (1) The business incubator must satisfy the secretary that it will
18 provide adequate and suitable facilities and services for the successful
19 development of businesses in the industry or industries targeted by the
20 business incubator within the business incubator's innovation zone;

21 (2) the boundaries of the business incubator's innovation zone may
22 not be the boundaries of a county that is designated as a rural opportunity
23 zone, pursuant to K.S.A. 2016 Supp. 74-50,222, and amendments thereto;
24 and

25 (3) the business incubator must demonstrate:

26 (A) Commitment, support and funding from the sponsoring
27 educational institution. Funding may be pledged from one or more of the
28 following sources: The educational institution's budget; the educational
29 institution's foundation; the educational institution's alumni association; or
30 a dedicated fundraising stream; and

31 (B) a pledge of support and funding from local government or local
32 private organizations within the proposed innovation zone. Funding may
33 be pledged from one or more of the following sources located within the
34 proposed innovation zone: The city or county government; city or county
35 economic development corporation; chamber of commerce; community
36 foundation; hospital foundation; school district; school district foundation
37 or community non-profit organization.

38 (c) In considering applications and awarding grants and innovation
39 zone status, the secretary shall ensure business incubator industry targets
40 are not duplicative and will be synergistic with developed research
41 programs or faculty expertise at the business incubator's sponsoring
42 educational institution.

43 (d) The secretary may award grants to up to five eligible business

1 incubators in five respective innovation zones. No more than one business
2 incubator shall be permitted for an innovation zone. The secretary may
3 award more than one grant to a business incubator during its life, in
4 accordance with criteria to be developed by the secretary. Grants shall be
5 for a period of three years.

6 (e) In considering eligible business incubators for a grant, the
7 secretary may consider the availability of outside funding in addition to the
8 financial support required from the educational institution and local
9 government or community organizations pursuant to subsection (b)(3).

10 (f) Business incubators that are selected to receive a grant by the
11 secretary shall enter into an agreement with the secretary. Among other
12 provisions that may be required by the secretary, the agreement must
13 include the following provisions:

14 (1) Funds received from the secretary shall be used for start-up costs
15 of the business incubator as designated by the secretary, to include,
16 without limitation, leasing, constructing or refurbishing space, obtaining
17 equipment, or initial salaries of business incubator staff and shall
18 supplement other funds received by the business incubator;

19 (2) an agreement by the business incubator to remit to the secretary
20 10% of any revenue received from an equity stake obtained in a business
21 in the course of the business incubator's business development activities;

22 (3) the business incubator shall agree to submit to an audit or audits
23 pursuant to criteria established by the secretary and consistent with current
24 applicable state guidelines; and

25 (4) the business incubator shall submit annual reports to the chief
26 executive officer of the sponsoring educational institution, the board of
27 regents and the department of commerce, to be due at the end of the fiscal
28 year. The content of the reports may be developed by the secretary upon
29 consultation with the board of regents or the sponsoring educational
30 institution and shall include at a minimum the following information:
31 Quantitative and qualitative job creation results, an account of spending
32 and research program activities; information regarding businesses
33 entering, currently utilizing and leaving the business incubator's facilities
34 or programs; and plans for the next fiscal year.

35 New Sec. 4. (a) There is hereby established in the state treasury the
36 Kansas economic development initiatives fund which shall be
37 administered by the secretary of commerce. Expenditures from the fund
38 shall be for the purpose of providing grants under the Kansas innovation
39 zone act and for other economic development activities including, but not
40 limited to, economic development programs or activities at Kansas
41 educational institutions. All expenditures from the Kansas development
42 initiatives fund shall be made in accordance with appropriation acts upon
43 warrants of the director of accounts and reports issued pursuant to

1 vouchers approved by the secretary of commerce or the designee of the
2 secretary.

3 (b) The secretary shall remit all moneys received from business
4 incubators pursuant to section 3(f)(2), and amendments thereto, to the state
5 treasurer in accordance with the provisions of K.S.A. 75-4215, and
6 amendments thereto. Upon receipt of each such remittance, the state
7 treasurer shall deposit the entire amount in the state treasury to the credit
8 of the Kansas economic development initiatives fund.

9 (c) Subject to appropriation acts, on the effective date of this act and
10 on July 1 of each next succeeding year, the director of accounts and reports
11 shall transfer \$10,000,000 from the general fund to the Kansas economic
12 development initiatives fund.

13 New Sec. 5. (a) For taxable years commencing after December 31,
14 2017, there shall be allowed as a credit against the tax liability of a
15 resident individual taxpayer an amount equal to the resident individual's
16 income tax liability under the provisions of the Kansas income tax act, for:

17 (1) The period of time during a taxable year when the resident
18 individual is employed by a business with its business headquarters in a
19 business incubator and the business is involved in the business incubator's
20 business development program; or

21 (2) the period of time during a taxable year, for no more than five
22 consecutive taxable years immediately succeeding the year in which a
23 business has left the business incubator, that the resident individual is
24 employed by the business, if:

25 (A) The business continues business operations and its business
26 headquarters, and its principal business facilities and operations remain
27 located within the innovation zone; and

28 (B) the employees place of employment with the business is located
29 within the innovation zone.

30 (b) The provisions of this section shall expire on June 30, 2035.

31 New Sec. 6. The secretary may adopt rules and regulations to
32 implement the provisions of the Kansas innovation zone act, sections 1
33 through 7, and amendments thereto.

34 New Sec. 7. The provisions of the Kansas innovation zone act of
35 sections 1 through 4 and section 6, and amendments thereto, shall expire
36 on June 30, 2020.

37 Sec. 8. K.S.A. 2016 Supp. 79-32,160a is hereby amended to read as
38 follows: 79-32,160a. (a) For taxable years commencing after December
39 31, 1999, and before January 1, 2012, *and for taxable years commencing*
40 *after December 31, 2017*, any taxpayer who shall invest in a qualified
41 business facility, as defined in ~~subsection (b)~~ of K.S.A. 79-32,154(b), and
42 amendments thereto, and effective for tax years commencing after
43 December 31, 2010, and before January 1, 2012, located in an area other

1 than a metropolitan county as defined in either K.S.A. 2016 Supp. 74-
2 50,114 or 74-50,211, and amendments thereto, and also meets the
3 definition of a business in ~~subsection (b) of K.S.A. 74-50,114(b)~~, and
4 amendments thereto, shall be allowed a credit for such investment, in an
5 amount determined under subsection (b) or (c), as the case requires,
6 against the tax imposed by the Kansas income tax act or where the
7 qualified business facility is the principal place from which the trade or
8 business of the taxpayer is directed or managed and the facility has
9 facilitated the creation of at least 20 new full-time positions, against the
10 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and
11 amendments thereto, or as measured by the net income of financial
12 institutions imposed pursuant to article 11 of chapter 79 of the Kansas
13 Statutes Annotated, and amendments thereto, for the taxable year during
14 which commencement of commercial operations, as defined in ~~subsection~~
15 ~~(f) of K.S.A. 79-32,154(f)~~, and amendments thereto, occurs at such
16 qualified business facility. In the case of a taxpayer who meets the
17 definition of a manufacturing business in ~~subsection (d) of K.S.A. 74-~~
18 ~~50,114(d)~~, and amendments thereto, no credit shall be allowed under this
19 section unless the number of qualified business facility employees, as
20 determined under ~~subsection (d) of K.S.A. 79-32,154(d)~~, and amendments
21 thereto, engaged or maintained in employment at the qualified business
22 facility as a direct result of the investment by the taxpayer for the taxable
23 year for which the credit is claimed equals or exceeds two. In the case of a
24 taxpayer who meets the definition of a nonmanufacturing business in
25 ~~subsection (f) of K.S.A. 74-50,114(f)~~, and amendments thereto, no credit
26 shall be allowed under this section unless the number of qualified business
27 facility employees, as determined under ~~subsection (d) of K.S.A. 79-~~
28 ~~32,154(d)~~, and amendments thereto, engaged or maintained in employment
29 at the qualified business facility as a direct result of the investment by the
30 taxpayer for the taxable year for which the credit is claimed equals or
31 exceeds five. Where an employee performs services for the taxpayer
32 outside the qualified business facility, the employee shall be considered
33 engaged or maintained in employment at the qualified business facility if:
34 (1) The employee's service performed outside the qualified business
35 facility is incidental to the employee's service inside the qualified business
36 facility; or (2) the base of operations or, the place from which the service is
37 directed or controlled, is at the qualified business facility.

38 (b) The credit allowed by subsection (a) for any taxpayer who invests
39 in a qualified business facility which is located in a designated
40 nonmetropolitan region established under K.S.A. 74-50,116, and
41 amendments thereto, on or after the effective date of this act, shall be a
42 portion of the income tax imposed by the Kansas income tax act on the
43 taxpayer's Kansas taxable income, the premium tax or privilege fees

1 imposed pursuant to K.S.A. 40-252, and amendments thereto, or the
2 privilege tax as measured by the net income of financial institutions
3 imposed pursuant to article 11 of chapter 79 of the Kansas Statutes
4 Annotated, and amendments thereto, for the taxable year for which such
5 credit is allowed, but in the case where the qualified business facility
6 investment was made prior to January 1, 1996, not in excess of 50% of
7 such tax. Such portion shall be an amount equal to the sum of the
8 following:

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

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

16 (c) The credit allowed by subsection (a) for any taxpayer who invests
17 in a qualified business facility, which is not located in a nonmetropolitan
18 region established under K.S.A. 74-50,116, and amendments thereto, and
19 effective for tax years commencing after December 31, 2010, and before
20 January 1, 2012, located in an area other than a metropolitan county as
21 defined in either K.S.A. 2016 Supp. 74-50,114 or 74-50,211, and
22 amendments thereto, and which also meets the definition of business in
23 ~~subsection (b) of K.S.A. 74-50,114(b)~~, and amendments thereto, on or
24 after the effective date of this act, shall be a portion of the income tax
25 imposed by the Kansas income tax act on the taxpayer's Kansas taxable
26 income, the premium tax or privilege fees imposed pursuant to K.S.A. 40-
27 252, and amendments thereto, or the privilege tax as measured by the net
28 income of financial institutions imposed pursuant to article 11 of chapter
29 79 of the Kansas Statutes Annotated, and amendments thereto, for the
30 taxable year for which such credit is allowed, but in the case where the
31 qualified business facility investment was made prior to January 1, 1996,
32 not in excess of 50% of such tax. Such portion shall be an amount equal to
33 the sum of the following:

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

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

41 (d) The credit allowed by subsection (a) for each qualified business
42 facility employee and for qualified business facility investment shall be a
43 one-time credit. If the amount of the credit allowed under subsection (a)

1 exceeds the tax imposed by the Kansas income tax act on the taxpayer's
2 Kansas taxable income, the premium tax and privilege fees imposed
3 pursuant to K.S.A. 40-252, and amendments thereto, or the privilege tax as
4 measured by the net income of financial institutions imposed pursuant to
5 article 11 of chapter 79 of the Kansas Statutes Annotated, and amendments
6 thereto, for the taxable year, or in the case where the qualified business
7 facility investment was made prior to January 1, 1996, 50% of such tax
8 imposed upon the amount which exceeds such tax liability or such portion
9 thereof may be carried over for credit in the same manner in the
10 succeeding taxable years until the total amount of such credit is used.
11 Except that, before the credit is allowed, a taxpayer, who meets the
12 definition of a manufacturing business in ~~subsection (d)~~ of K.S.A. 74-
13 50,114(d), and amendments thereto, shall recertify annually that the net
14 increase of a minimum of two qualified business facility employees has
15 continued to be maintained and a taxpayer, who meets the definition of a
16 nonmanufacturing business in ~~subsection (f)~~ of K.S.A. 74-50,114(f), and
17 amendments thereto, shall recertify annually that the net increase of a
18 minimum of five qualified business employees has continued to be
19 maintained.

20 (e) Notwithstanding the foregoing provisions of this section, and
21 except as otherwise provided in this subsection, any taxpayer qualified and
22 certified under the provisions of K.S.A. 74-50,131, and amendments
23 thereto; which, prior to making a commitment to invest in a qualified
24 Kansas business, has filed a certificate of intent to invest in a qualified
25 business facility in a form satisfactory to the secretary of commerce; and
26 that has received written approval from the secretary of commerce for
27 participation and has participated, during the tax year for which the
28 exemption is claimed, in the Kansas industrial training, Kansas industrial
29 retraining or the state of Kansas investments in lifelong learning program
30 or is eligible for the tax credit established in K.S.A. 74-50,132, and
31 amendments thereto, shall be entitled to a credit in an amount equal to
32 10% of that portion of the qualified business facility investment which
33 exceeds \$50,000 in lieu of the credit provided in subsection (b)(2) or (c)(2)
34 without regard to the number of qualified business facility employees
35 engaged or maintained in employment at the qualified business facility.
36 For tax years beginning on or after January 1, 2012, for a qualified
37 business facility investment in Douglas, Johnson, Sedgwick, Shawnee or
38 Wyandotte counties, such credit shall be in an amount equal to 10% of that
39 portion of the qualified business facility investment which exceeds
40 \$1,000,000. Any taxpayer who has filed a certificate of intent to invest in a
41 qualified business facility pursuant to this subsection in Douglas, Johnson,
42 Sedgwick, Shawnee or Wyandotte county prior to December 31, 2011, and
43 commences investments in a qualified business facility prior to December

1 31, 2013, may claim credits under K.S.A. 74-50,131, 74-50,132 and
2 ~~subsection (e) of 79-32,160a(e)~~, and amendments thereto, in an amount
3 equal to 10% of that portion of the qualified business facility investment
4 which exceeds \$50,000. Timing modifications may be authorized at the
5 discretion of the secretary of commerce and the secretary of revenue
6 during the transition period. The credit allowed by this subsection shall be
7 a one-time credit. If the amount thereof exceeds the tax imposed by the
8 Kansas income tax act on the taxpayer's Kansas taxable income or the
9 premium tax or privilege fees imposed pursuant to K.S.A. 40-252, and
10 amendments thereto, or the privilege tax as measured by net income of
11 financial institutions imposed pursuant to article 11 of chapter 79 of the
12 Kansas Statutes Annotated, and amendments thereto, for the taxable year,
13 the amount thereof which exceeds such tax liability may be carried
14 forward for credit in the succeeding taxable year or years until the total
15 amount of the tax credit is used, except that no such tax credit shall be
16 carried forward for deduction after the 16th taxable year succeeding the
17 taxable year in which such credit initially was claimed, and no
18 carryforward shall be allowed for deduction in any succeeding taxable
19 year unless the taxpayer certifies under oath that the taxpayer continues to
20 meet the requirements of K.S.A. 74-50,131, and amendments thereto, and
21 this act. In no event shall any credit allowed under this section that expired
22 during any taxable year prior to the taxable year commencing January 1,
23 2011, be revived under the provisions of this act.

24 (f) For tax years commencing after December 31, 2005, any taxpayer
25 claiming credits pursuant to this section, as a condition for claiming and
26 qualifying for such credits, shall provide information pursuant to K.S.A.
27 2016 Supp. 79-32,243, and amendments thereto, as part of the tax return in
28 which such credits are claimed. Such credits shall not be denied solely on
29 the basis of the contents of the information provided by the taxpayer
30 pursuant to K.S.A. 2016 Supp. 79-32,243, and amendments thereto.

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

34 Sec. 9. K.S.A. 2016 Supp. 79-32,160a is hereby repealed.

35 Sec. 10. This act shall take effect and be in force from and after its
36 publication in the statute book.