

## SENATE BILL No. 5

By Senators Faust-Goudeau and Ware

1-8

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1 AN ACT enacting the Kansas reinvestment act.

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

4 Section 1. Sections 1 through 11, and amendments thereto, may be  
5 cited as the Kansas reinvestment act. The purpose of this act is to promote  
6 job creation and economic development in impoverished areas of this state  
7 and to promote the growth of communities in such areas by providing  
8 financial assistance to small businesses and community organizations.

9 Sec. 2. As used in this act:

10 (a) "Business renovation" means improving the existing physical  
11 facilities or physical structure of an "eligible business or organization."

12 (b) "Eligible business or organization" means a "small business,"  
13 "new small business," "exempt business," "nonprofit organization," or  
14 "religious organization" that meets the applicable requirements for  
15 eligibility for an award of a loan under this act as determined by the  
16 secretary.

17 (c) "Exempt business" means a business exempted from certain  
18 requirements for eligibility for a loan under this act by the secretary  
19 pursuant to the provisions of section 8, and amendments thereto.

20 (d) "Fraudulent activity" means submitting false documentation to the  
21 state of Kansas, the secretary or the secretary's designee or a third party  
22 contractor approved by the secretary for purposes of securing a loan  
23 pursuant to this act, including, but not limited to: (1) Overestimating goods  
24 or services for the intended purpose of receiving funds; or (2) using  
25 awarded funds for purposes or in a manner contrary to the provisions of  
26 this act.

27 (e) "Impoverished area" means a zip code area in which the median  
28 income does not exceed 70% of the state median income according to  
29 United States census bureau data for the most recent year available.

30 (f) "New small business" means a small business that has been in  
31 existence for more than 12 months and less than 18 months.

32 (g) "Nonprofit organization" means any organization:

33 (1) Organized and operated for the purpose of the relief of poverty,  
34 distress or other condition of public concern within this state, financially  
35 supporting the activities of an organization organized and operated for  
36 such purposes or conferring direct benefits on the community at large;

1 (2) where no part of the net earnings of such organization inures to  
2 the benefit of any private shareholder or individual member of such  
3 organization; and

4 (3) that is either exempt from the payment of federal income taxes as  
5 provided by sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6) or 501(c)  
6 (7) of the federal internal revenue code of 1986, as amended, or is found  
7 by the secretary to be organized and operated as a bona fide nonprofit  
8 organization.

9 (h) "Program manager" means the manager of the Kansas  
10 reinvestment act program appointed by the secretary of commerce.

11 (i) "Religious organization" means any corporation, trust or  
12 organization:

13 (1) Incorporated or established for religious purposes, or established  
14 for charitable, hospital or educational purposes and engaged in effectuating  
15 one or more of such purposes;

16 (2) affiliated with, operated by or supervised or controlled by a  
17 corporation, trust or organization incorporated or established for religious  
18 purposes; and

19 (3) which has been exempted from the payment of federal income  
20 taxes pursuant to section 501(c)(3) or 501(d) of the federal internal  
21 revenue code of 1986, as amended.

22 (j) "Secretary" means the secretary of commerce or the designee of  
23 the secretary of commerce.

24 (k) "Small business" means a sole proprietorship, limited liability  
25 corporation, partnership or corporation that receives less than \$3,500,000  
26 in gross revenue annually and employs 50 or fewer employees and is not a  
27 franchisee of a national business that has franchisees in more than one  
28 state.

29 Sec. 3. (a) There is hereby established the Kansas reinvestment  
30 program, which shall be within the department of commerce. The secretary  
31 of commerce may appoint a program manager to administer the Kansas  
32 reinvestment program who shall be in the unclassified service. The  
33 program manager's salary shall be equivalent to the salary of a division  
34 head within the department of commerce.

35 (b) The secretary may contract with third parties, as otherwise  
36 provided by law, to carry out the provisions of this act. Subject to  
37 appropriation acts, the secretary may hire staff members who shall be in  
38 the unclassified service.

39 (c) The secretary shall have authority to enter into agreements for  
40 awarding loans to eligible businesses or organizations for the purposes of,  
41 and in accordance with, the provisions of this act beginning on July 1,  
42 2019, and ending on June 30, 2023.

43 Sec. 4. (a) There is hereby created in the state treasury the Kansas

1 reinvestment act fund. The secretary shall administer the fund. All  
2 expenditures from the fund shall be for administration of this act and for  
3 the purpose of promoting job creation and economic development by  
4 awarding financial assistance to eligible businesses or organizations in  
5 accordance with the provisions of this act. All expenditures shall be made  
6 in accordance with appropriation acts upon warrants of the director of  
7 accounts and reports issued pursuant to vouchers approved by the  
8 secretary or the secretary's designee.

9 (b) Subject to appropriation acts, beginning on July 1, 2019, and on  
10 each following July 1 up to and including July 1, 2022, the director of  
11 accounts and reports shall transfer \$1,250,000 from the general fund to the  
12 Kansas reinvestment fund.

13 (c) Subject to appropriation acts, up to 10% of the amount transferred  
14 to the Kansas investment fund each fiscal year may be used by the  
15 secretary for the administration of the Kansas reinvestment program,  
16 including for salaries of the program manager and any staff.

17 Sec. 5. (a) On and after July 1, 2019, a business or organization may  
18 apply to the secretary to enter into an agreement for a loan, pursuant to this  
19 act. The application shall be submitted on a form and in a manner  
20 prescribed by the secretary and shall include the information requested by  
21 the secretary.

22 (b) Upon receipt of an application, if the secretary finds that the  
23 applicant is an eligible business or organization meeting the requirements  
24 of this act, the secretary shall enter into an agreement with the eligible  
25 business or organization for a loan in the amount and upon terms and  
26 conditions at the secretary's discretion within the limitations and  
27 provisions of this act. When considering an application or terms of an  
28 agreement, the secretary shall consult with the local governmental  
29 authorities responsible for economic development in the city or county  
30 within which the applicant is located.

31 (c) An agreement with the eligible business or organization shall  
32 provide that should the eligible business or organization fail to comply  
33 with the terms set forth in the agreement, the secretary may terminate the  
34 agreement, and any outstanding funds awarded, with interest, shall  
35 constitute a debt immediately due and payable to the state of Kansas and  
36 shall be repaid to the secretary for deposit in the Kansas reinvestment act  
37 fund. The outstanding amount of the funds awarded, with interest, and the  
38 cost of recovery may be turned over for collection to a designated  
39 collection agency by the secretary. All agreements shall require that the  
40 applicant furnish the secretary with information requested by the secretary  
41 for the purposes of fulfilling the goals and ensuring compliance with the  
42 provisions of this act. An award recipient shall make its books and records  
43 available for inspection by the secretary or the secretary's designee at any

1 time during business hours.

2 (d) Loans to eligible businesses or organizations awarded by the  
3 secretary shall be used for the following purposes, to be specified in the  
4 agreement between the secretary and the award recipient:

5 (1) Business renovation;

6 (2) business equipment, including machinery, office equipment or  
7 software;

8 (3) a new structure or structures;

9 (4) up to \$10,000 for relocation to an impoverished area; or

10 (5) up to \$20,000 for marketing.

11 (e) All agreements shall further specify that loan funds awarded by  
12 the secretary shall not be used for:

13 (1) Salaries of employees;

14 (2) personal vehicles or vehicles that will be used for less than 90%  
15 business use; or

16 (3) payments for debts incurred for goods or services received prior  
17 to receipt of the loan.

18 (f) All agreements shall provide that fraudulent activity by the loan  
19 recipient shall constitute a breach of the agreement and result in the  
20 mandatory return of the full amount of awarded loan funds to the secretary.  
21 All agreements shall contain terms prohibiting the sale of a business that  
22 has received a loan for a period of five years from the date the loan is  
23 awarded, unless the loan is paid back by the business prior to or as a  
24 requirement of the sale.

25 (g) Loans shall include the following terms, which shall be specified  
26 in the agreement between the secretary and the loan recipient:

27 (1) A fixed interest rate of 1.99%;

28 (2) a term of repayment set by agreement between the recipient and  
29 the secretary;

30 (3) a six-month grace period during which interest shall accrue but no  
31 payments shall be due; and

32 (4) a provision for forgiveness of the remaining principal and interest  
33 upon payment of 50% of the principal, if the applicable provisions of this  
34 act and terms of the agreement with the secretary have been met, loan  
35 payments to the secretary have been timely made and applicable business  
36 goals or other conditions in furtherance of the purposes of this act set forth  
37 in the agreement between the secretary and the award recipient have been  
38 achieved.

39 (h) The secretary shall set conditions under which loan payments may  
40 be suspended for a period of time or the loan may be restructured where  
41 circumstances beyond the control of the loan recipient have resulted or  
42 will result in financial hardship, and the secretary finds such suspension or  
43 restructuring will permit the loan recipient to successfully meet the goals

1 of this act. Suspension of payments or restructuring of the loan under such  
2 circumstances shall not be considered a failure to meet conditions for  
3 eligibility for forgiveness of principal pursuant to subsection (g)(4).

4 Sec. 6. (a) In addition to other requirements under this act, to be  
5 eligible to receive an award of a loan, a small business or new small  
6 business shall meet the following requirements, which shall be set forth in  
7 the agreement with the secretary:

8 (1) Be located in or relocating to an impoverished area;

9 (2) not be delinquent in filing any return or paying any tax due to the  
10 state of Kansas or the federal government; and

11 (3) submit to the secretary a business plan that has been reviewed and  
12 deemed to substantially meet applicable commercial lending standards by:

13 (A) The Kansas small business development center or the federal  
14 small business administration; and

15 (B) a bank or other financial institution approved by the secretary.

16 (b) In addition to other requirements under this act, to be eligible to  
17 receive an award of a loan, a nonprofit organization or religious  
18 organization shall meet the following requirements, which shall be set  
19 forth in the agreement with the secretary and a loan recipient:

20 (1) Be located in or relocating to an impoverished area;

21 (2) be current in required filings and in good standing with the federal  
22 internal revenue service;

23 (3) be in good standing with regard to any filings due to the state of  
24 Kansas;

25 (4) employ no more than 25 employees and annually receive gross  
26 revenues of no more than \$750,000; and

27 (5) agree to employ at least two new employees.

28 Sec. 7. Loans awarded by the secretary shall be subject to the  
29 following limitations:

30 (a) No religious organization or nonprofit business shall receive  
31 awards totaling more than \$75,000;

32 (b) no small business shall receive awards totaling more than  
33 \$100,000; and

34 (c) no new small business shall receive awards totaling more than  
35 \$50,000.

36 Sec. 8. (a) A nonprofit organization or religious organization that does  
37 not meet the eligibility requirements set forth in section 6(b)(4), and  
38 amendments thereto, or a business that does not meet the definition of a  
39 small business or new small business as defined in section 1, and  
40 amendments thereto, may apply to the secretary for an exemption from  
41 one or more of those requirements. If the secretary grants an exemption,  
42 the secretary may also waive the requirements of section 6(a)(3), and  
43 amendments thereto. No exemption shall be considered by the secretary

1 with regard to the business activity restrictions set forth in section 9, and  
2 amendments thereto.

3 (b) An application for an exemption shall be considered by the  
4 secretary, and approval or disapproval at the secretary's sole discretion  
5 shall be given within 30 days of submission of a completed application. In  
6 reviewing the application, the secretary shall consider:

7 (1) The direct economic impact on the impoverished area by the  
8 applicant, including, but not limited to, an analysis of the near-term and  
9 five-year projected economic impact from job creations and capital  
10 investment by the business;

11 (2) the commitment by the applicant to the community of the  
12 impoverished area as demonstrated by the total investment in the business,  
13 employment commitments, and intent to remain in the community; and

14 (3) information provided by local government authorities responsible  
15 for economic development in the impoverished area regarding the impact  
16 of an award, including, the submission of a letter of support from the local  
17 government authorities.

18 (c) If the secretary approves the application for an exemption  
19 pursuant to subsection (a), a loan or loans shall be granted to the applicant  
20 as otherwise provided by this act, except that the total of all awards to the  
21 applicant shall not exceed \$75,000, and the secretary may require terms  
22 more favorable to the state than those set forth in section 5(g)(1), and  
23 amendments thereto, and need not provide a grace period or loan  
24 forgiveness provision pursuant to section 5(g)(3) or (4), and amendments  
25 thereto.

26 Sec. 9. Notwithstanding any other provision of this act, applicants  
27 that engage in any of the following business activities shall not be eligible  
28 for loans:

29 (a) Nude or semi-nude dancing;

30 (b) pornography;

31 (c) sales of alcoholic liquor at retail, as defined in K.S.A. 41-102, and  
32 amendments thereto;

33 (d) sales of cigarettes, pipe tobacco or pipes;

34 (e) loans utilizing title to vehicles as collateral; and

35 (f) check cashing.

36 Sec. 10. The secretary may adopt rules and regulations as necessary  
37 to carry out the provisions of this act.

38 Sec. 11. The provisions of sections 1 through 11, and amendments  
39 thereto, shall expire on July 1, 2023.

40 Sec. 12. This act shall take effect and be in force from and after its  
41 publication in the statute book.