

**19-4108. Same; eligibility requirements, application requirements, agreement, special qualified manufacturer fund, agreement limitations; secretary of commerce, duties.** (a) A qualified manufacturer may be eligible for a period of three and no more than four calendar years to receive an amount, not to exceed \$1,000,000 in the aggregate, from the special qualified manufacturer fund, if the qualified manufacturer complies with the following requirements:

- (1) Has paid or agrees to pay at least \$10,000,000 in annual gross compensation to employees located in Kansas;
- (2) has an average wage and salary of at least \$50,000 plus benefits;
- (3) has currently at least \$26,000,000 total investment in Kansas;
- (4) employs at least 190 full-time equivalent employees in Kansas as defined in K.S.A. 74-50,114, and amendments thereto; and
- (5) enters into an agreement with the secretary in which in return for the benefits authorized pursuant to this act, the qualified manufacturer agrees to maintain at least 190 full-time equivalent employees as defined in K.S.A. 74-50,114, and amendments thereto, in Kansas for a period of five years or such longer period as the qualified manufacturer and the secretary may agree.

(b) A qualified manufacturer may apply to the secretary to enter into an agreement for benefits under this act. The application shall include (1) evidence that the applicant is a qualified manufacturer as defined in K.S.A. 19-4107, and amendments thereto, and (2) that the qualified manufacturer intends to employ at least 190 full-time equivalent employees for a period of at least five years commencing from the date of the agreement.

(c) Upon receipt of an application described in subsection (b), if the secretary finds that the application is from a qualified manufacturer, the secretary may enter into an agreement with the qualified manufacturer for benefits under this act. The agreement shall commit the secretary to request that for a period of three years, but in no event longer than four years at the discretion of the secretary, from the date of the executed agreement, an amount not to exceed \$1,000,000, from the special qualified manufacturer fund created in subsection (d) and shall be transferred by the state treasurer to the qualified manufacturer. The agreement shall set forth the terms and conditions under which the secretary shall direct the state treasurer to transfer revenues in the special qualified manufacturer fund to the qualified manufacturer. The agreement shall specifically provide that if at any time the balance of the fund is insufficient to make a payment prescribed by the agreement, that the qualified manufacturer shall not be entitled to the payment. In the event the qualified manufacturer fails to comply with the terms and conditions set forth in the agreement, the agreement shall provide that the secretary can terminate the agreement, and the qualified manufacturer shall not be entitled to further distributions from the special qualified manufacturer fund.

(d) The state treasurer shall credit all revenue collected or received from withholding upon Kansas wages paid by a taxpayer which is a qualified manufacturer, as certified by the secretary, to the special qualified manufacturer fund, which fund is hereby created in the custody of the state treasurer, but which fund shall not be a part of the state treasury or the state general fund. Distributions from the fund shall not be subject to appropriation. On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the special qualified manufacturer fund interest earnings based on: (1) The average daily balance of moneys in the special qualified manufacturer fund for the preceding month; and (2) the net earnings rate of the pooled money investment portfolio for the preceding month. The provisions of this section shall expire when all revenues that, pursuant to the agreement are to be paid to the qualified manufacturer, have been distributed. Moneys credited to the special qualified manufacturer fund in accordance with the foregoing provisions shall be distributed to or on the order of the secretary. The state treasurer shall make such distributions on such dates as mutually agreed to by the secretary and the state treasurer, serving as paying agent pursuant to the terms of the agreement. The total of all distributions under this section shall not exceed \$1,000,000.

(e) Income tax refunds and balances due resulting from withholding upon Kansas wages paid by the qualified manufacturer pursuant to K.S.A. 79-3294 et seq., and amendments thereto, shall be reconciled on at least an annual basis by a method defined in the agreement described in subsection (c).

(f) A qualified manufacturer shall not be allowed to participate in the IMPACT act or program pursuant to K.S.A. 74-50,102 et seq., and amendments thereto. The secretary may include provisions in the agreement described in subsection (c) to limit or reduce the amount of eligible credits related to the provisions of this act, including, but not limited to, those allowed pursuant to K.S.A. 79-32,160a or 79-32,182b, and amendments thereto. Nothing in this subsection shall be construed to prohibit the qualified manufacturer from receiving credits allowed by law for any investment not related to the provisions of this act.

(g) The agreement between the qualified manufacturer and the secretary shall be entered into before any benefits may be provided under this act, and shall specify that should the qualified manufacturer fail to maintain the employment levels set forth in the agreement, that the qualified manufacturer shall be required to repay an amount in proportion to the level that employment has fallen below the agreement, which has been distributed to the qualified manufacturer from the special qualified manufacturer fund, as may be determined by the secretary.

(h) Benefits authorized pursuant to this act shall not be used to provide for or to increase compensation packages, rewards, bonuses, pensions, enhanced retirement, stock options, buyouts or substantial severance pay or other financial benefits to any chief executive officer, chief financial officer or any officers of the company.

**History:** L. 2005, ch. 80, § 3; Apr. 14.