

74-50,131. Definitions; qualifications; certification of eligibility; rules and regulations. Commencing after December 31, 1999: (a) As used in this act: "Qualified firm" means a for-profit business establishment, subject to state income, sales or property taxes, identified under the North American industry classification system (NAICS) subsectors 221, 311 to 339, 423 to 425, 481 to 519, 521 to 721 and 811 to 928 or is identified as a corporate or regional headquarters or back-office operation of a national or multi-national corporation regardless of NAICS designation. The secretary of commerce shall determine eligibility when a difference exists between a firm's primary business activity and NAICS designation. A business establishment may be assigned a NAICS designation according to the primary business activity at a single physical location in the state.

(b) In the case of firms in NAICS subsectors 221, 423 to 425, 481 to 519, 521 to 721 and 811 to 928, the business establishment must also demonstrate the following:

- (1) More than 1/2 of its gross revenues are a result of sales to commercial or governmental customers outside the state of Kansas; or
- (2) more than 1/2 of its gross revenues are a result of sales to Kansas manufacturing firms within NAICS subsectors 311 to 339; or
- (3) more than 1/2 of its gross revenues are a result of a combination of sales described in (1) and (2).

(c) For purposes of determining whether one of the average wage options described in subsection (d) below is satisfied, business establishments located within a metropolitan county, as defined in K.S.A. 74-50,114, and amendments thereto, will be compared only to other businesses within that metropolitan county, and business establishments located outside of a metropolitan county will be compared to businesses within an aggregation of counties representing the business establishment's region of the state, which regional aggregation will exclude metropolitan counties. Such aggregation shall be determined by the department of commerce.

(d) Additionally, a business establishment having met the criteria as established in subsection (a) or (b), and using the comparison method described in subsection (c), must meet one of the following criteria:

(1) The establishment with 500 or fewer full-time equivalent employees will provide an average wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees which share the appropriate NAICS designation.

(2) The establishment with 500 or fewer full-time equivalent employees is the sole firm within its appropriate NAICS designation which has 500 or fewer full-time equivalent employees.

(3) The establishment with more than 500 full-time equivalent employees will provide an average wage that is above the average wage paid by firms with more than 500 full-time equivalent employees which share the appropriate NAICS designation.

(4) The establishment with more than 500 full-time equivalent employees is the sole firm within its appropriate NAICS designation which has more than 500 full-time equivalent employees, in which event it shall either provide an average wage that is above the average wage paid by all firms with 500 or fewer full-time equivalent employees which share the appropriate NAICS designation, or be the sole firm within its appropriate NAICS designation.

(e) As an alternative to the requirements of subsections (c) and (d), a firm having met the requirements of subsections (a) or (b), may qualify, if excluding taxable disbursements to company owners, the business establishment's annual average wage must be greater than or equal to 1.5 times the aggregate average wage paid by industries covered by the employment security law based on data maintained by the secretary of labor.

(f) For the purposes of this section, the number of full-time equivalent employees shall be determined by dividing the number of hours worked by part-time employees during the pertinent measurement interval by an amount equal to the corresponding multiple of a 40-hour work week and adding the quotient to the number of full-time employees.

(g) The secretary of commerce shall certify annually to the secretary of revenue that a firm meets the criteria for a qualified firm and that the firm is eligible for the benefits and assistance provided under this act. The secretary of commerce is hereby authorized to obtain any and all information necessary to determine such eligibility. Information obtained under this section shall not be subject to disclosure pursuant to K.S.A. 45-215 et seq., and amendments thereto, but shall upon request be made available to the legislative post audit division. The secretary of commerce shall publish rules and regulations for the implementation of this act. Such rules and regulations shall include, but not be limited to:

(1) A definition of "training and education" for purposes of K.S.A. 74-50,132, and amendments thereto.

(2) Establishment of eligibility requirements and application procedures for expenditures from the high performance incentive fund created in K.S.A. 74-50,133, and amendments thereto.

(3) Establishment of approval guidelines for private consultants authorized pursuant to K.S.A. 74-50,133, and amendments thereto.

(4) Establishment of guidelines for prioritizing business assistance programs pursuant to K.S.A. 74-50,133, and amendments thereto.

(5) A definition of "commercial customer" for the purpose of K.S.A. 74-50,133, and amendments thereto.

(6) A definition of "headquarters" for the purpose of K.S.A. 74-50,133, and amendments thereto.

(7) Establishment of guidelines concerning the use and disclosure of any information obtained to determine the eligibility of a firm for the assistance and benefits provided for by this act.

History: L. 1993, ch. 172, § 1; L. 1994, ch. 268, § 1; L. 1995, ch. 217, § 1; L. 1997, ch. 96, § 1; L. 1999, ch. 37, § 1; L. 2000, ch. 157, § 8; L. 2003, ch. 154, § 54; L. 2004, ch. 179, § 104; L. 2010, ch. 97, § 2; July 1.