

HOUSE BILL No. 2267

By Committee on Taxation

2-8

1 AN ACT concerning income taxation; relating to credits; high
2 performance incentive program; amending K.S.A. 2012 Supp. 74-
3 50,131 and repealing the existing section.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2012 Supp. 74-50,131 is hereby amended to read as
7 follows: 74-50,131. Commencing after December 31, ~~1999~~ 2011: (a) As
8 used in this act: "Qualified firm" means a for-profit business
9 establishment, subject to state income, sales or property taxes, identified
10 under the North American industry classification system (NAICS)
11 subsectors 112, 221, 311 to 339, 423 to 425, 481 to 519, 521 to 721 and
12 811 to 928 or is identified as a corporate or regional headquarters or back-
13 office operation of a national or multi-national corporation regardless of
14 NAICS designation. The secretary of commerce shall determine eligibility
15 when a difference exists between a firm's primary business activity and
16 NAICS designation. A business establishment may be assigned a NAICS
17 designation according to the primary business activity at a single physical
18 location in the state.

19 (b) In the case of firms in NAICS subsectors 221, 423 to 425, 481 to
20 519, 521 to 721 and 811 to 928, the business establishment must also
21 demonstrate the following:

22 (1) More than $\frac{1}{2}$ of its gross revenues are a result of sales to
23 commercial or governmental customers outside the state of Kansas; or

24 (2) more than $\frac{1}{2}$ of its gross revenues are a result of sales to Kansas
25 manufacturing firms within NAICS subsectors 311 to 339; or

26 (3) more than $\frac{1}{2}$ of its gross revenues are a result of a combination of
27 sales described in (1) and (2).

28 (c) For purposes of determining whether one of the average wage
29 options described in subsection (d) below is satisfied, business
30 establishments located within a metropolitan county, as defined in K.S.A.
31 74-50,114, and amendments thereto, will be compared only to other
32 businesses within that metropolitan county, and business establishments
33 located outside of a metropolitan county will be compared to businesses
34 within an aggregation of counties representing the business establishment's
35 region of the state, which regional aggregation will exclude metropolitan
36 counties. Such aggregation shall be determined by the department of

1 commerce.

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

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

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

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

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

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

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

35 (g) The secretary of commerce shall certify annually to the secretary
36 of revenue that a firm meets the criteria for a qualified firm and that the
37 firm is eligible for the benefits and assistance provided under this act. The
38 secretary of commerce is hereby authorized to obtain any and all
39 information necessary to determine such eligibility. Information obtained
40 under this section shall not be subject to disclosure pursuant to K.S.A. 45-
41 215 et seq., and amendments thereto, but shall upon request be made
42 available to the legislative post audit division. The secretary of commerce
43 shall publish rules and regulations for the implementation of this act. Such

1 rules and regulations shall include, but not be limited to:

2 (1) A definition of "training and education" for purposes of K.S.A.
3 74-50,132, and amendments thereto.

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

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

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

11 (5) A definition of "commercial customer" for the purpose of K.S.A.
12 74-50,133, and amendments thereto.

13 (6) A definition of "headquarters" for the purpose of K.S.A. 74-
14 50,133, and amendments thereto.

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

18 Sec. 2. K.S.A. 2012 Supp. 74-50,131 is hereby repealed.

19 Sec. 3. This act shall take effect and be in force from and after its
20 publication in the statute book.