

2023 Kansas Statutes

74-99b33. Definitions. As used in the emerging industry investment act, and amendments thereto, the following words and phrases shall have the following meanings unless a different meaning clearly appears from the content:

- (a) "Authority" means the Kansas bioscience authority as created by K.S.A. 74-99b04, and amendments thereto.
- (b) "Base year taxation" means 95% of the 2003 state withholding taxes of bioscience employees working for bioscience companies and state universities currently located in or operating in the state. The base year taxation may be adjusted in future years to account for the addition of new bioscience companies and the identification of existing bioscience companies inadvertently omitted from prior determinations. When a bioscience company is added, the base year taxation shall be amended by 95% of the company's 2003 state withholding taxes, if any.
- (c) "Bioscience" means the use of compositions, methods and organisms in cellular and molecular research, development and manufacturing processes for such diverse areas as pharmaceuticals, medical therapeutics, medical diagnostics, medical devices, medical instruments, biochemistry, microbiology, veterinary medicine, plant biology, agriculture, industrial, environmental, and homeland security applications of bioscience and future developments in the biosciences. Bioscience includes biotechnology and life sciences.
- (d) "Bioscience company" or "bioscience companies" means a corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, person, group or other entity that is engaged in the business of bioscience in the state and has business operations in the state, including, without limitation, research, development, sales, services, distribution or production directed towards developing or providing bioscience products or processes for specific commercial or public purposes but shall not include entities engaged in the distribution or retail sale of pharmaceuticals or other bioscience products. The authority and the secretary of revenue shall jointly determine whether an entity qualifies as a "bioscience company" based on verifiable evidence. One of the factors that shall be considered is whether a company has been identified by the department of labor by one of the following NAICS codes: 325411, 325412, 325413, 325414, 325193, 325199, 325311, 325320, 334516, 339111, 339112, 339113, 334510, 334517, 339115, 621511, 621512, 541710, 541380, 541940 and 622110. Such company shall be presumed to be a bioscience company unless the authority and the secretary of revenue agree, based on verifiable evidence, that the company is not engaged in the business of bioscience in the state. A company identified by another NAICS code may be determined to be a bioscience company by the authority and the secretary of revenue based on verifiable evidence that the company is engaged in the business of bioscience in the state. From and after July 1, 2014, the authority and the secretary of revenue, based upon verifiable evidence, may determine that a company which has previously been determined to be a bioscience company shall no longer be considered to be a bioscience company for the purposes of the emerging industry investment act.
- (e) "Bioscience development and investment fund" means the fund created by K.S.A. 74-99b34, and amendments thereto.
- (f) "Bioscience employee" means any employee, officer or director of a bioscience company who is employed in the 2003 tax year or after December 31, 2003, and who is also a state taxpayer and any employee of state universities who is associated with bioscience research in the 2003 tax year or after December 31, 2003, and who is also a state taxpayer.
- (g) "Bioscience research" means any original investigation for the advancement of scientific or technological knowledge of bioscience and any activity that seeks to utilize, synthesize, or apply existing knowledge, information or resources to the resolution of a specific problem, question or issue of bioscience.
- (h) "Biotechnology" means those fields focusing on technological developments in such areas as molecular biology, genetic engineering, genomics, proteomics, physiomics, nanotechnology, biodefense, biocomputing and bioinformatics and future

developments associated with biotechnology.

(i) "Board" means the board of directors of the authority.

(j) "Eminent scholar" means world-class, distinguished and established investigators recognized nationally for their research, achievements and ability to garner significant federal funding on an annual basis. Eminent scholars are recognized for their scientific knowledge and entrepreneurial spirit to enhance the innovative research that leads to economic gains. Eminent scholars are either members of or likely candidates for the national academy of sciences or other prominent national academic science organizations.

(k) "Life sciences" means, without limitation, the areas of medical sciences, pharmaceutical sciences, biological sciences, zoology, botany, horticulture, ecology, toxicology, organic chemistry, physical chemistry and physiology and any future advances associated with the life sciences.

(l) "NAICS" means the north American industry classification system.

(m) "Rising star scholar" means up-and-coming distinguished investigators growing in their national reputations in their fields, who are active and demonstrate leadership in their associated professional societies, and who attract significant federal research grant support. Rising star scholars would be likely candidates for the national academy of science or other prominent national academic science organizations in the future.

(n) "State" means the state of Kansas.

(o) "State universities" includes state educational institutions as defined in K.S.A. 76-711, and amendments thereto, and the municipal university as defined in K.S.A. 74-3201b, and amendments thereto.

(p) "Subsequent year taxation" means 95% of all state withholding taxes payable by bioscience companies that commence operating in the state after December 31, 2003, and 95% of withholding associated with new bioscience employees added to bioscience companies and state universities and associated with growth of the existing bioscience employee withholding base after December 31, 2003.

(q) "Taxpayer" means a person, corporation, limited liability company, S corporation, partnership, registered limited liability partnership, foundation, association, nonprofit entity, sole proprietorship, business trust, group or other entity that is subject to the Kansas income tax act, K.S.A. 79-3201 et seq., and amendments thereto.

(r) "This act" means the emerging industry investment act.

History: L. 2004, ch. 112, § 20; L. 2005, ch. 75, § 1; L. 2014, ch. 20, § 1; July 1.