

1 STATE OF OKLAHOMA

2 1st Session of the 58th Legislature (2021)

3 HOUSE BILL 1899

By: Roberts (Sean)

4  
5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending  
8 68 O.S. 2011, Sections 3603, as last amended by  
9 Section 1, Chapter 156, O.S.L. 2018, 3604, as last  
10 amended by Section 2, Chapter 144, O.S.L. 2018 and  
11 3606, as last amended by Section 1, Chapter 138,  
12 O.S.L. 2020 (68 O.S. Supp. 2020, Sections 3603, 3604  
13 and 3606), which relate to the Oklahoma Quality Jobs  
14 Program Act; modifying provisions related to payment  
15 of incentive to certain business establishment;  
16 providing for termination of payments and designating  
17 date of termination; providing for codification; and  
18 declaring an emergency.

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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2011, Section 3603, as  
last amended by Section 1, Chapter 156, O.S.L. 2018 (68 O.S. Supp.  
2020, Section 3603), is amended to read as follows:

Section 3603. A. As used in the Oklahoma Quality Jobs Program  
Act:

1. a. "Basic industry" means:

(1) those manufacturing activities defined or

classified in the NAICS Manual under Industry

1 Sector Nos. 31, 32 and 33, Industry Group No.  
2 5111 or Industry No. 11331,

3 (2) those electric power generation, transmission and  
4 distribution activities defined or classified in  
5 the NAICS Manual under U.S. Industry Nos. 221111  
6 through 221122, if:

7 (a) an establishment engaged therein qualifies  
8 as an exempt wholesale generator as defined  
9 by 15 U.S.C., Section 79z-5a,

10 (b) the exempt wholesale generator facility  
11 consumes from sources located within the  
12 state at least ninety percent (90%) of the  
13 total energy used to produce the electrical  
14 output which qualifies for the specialized  
15 treatment provided by the Energy Policy Act  
16 of 1992, P.L. 102-486, 106 Stat. 2776, as  
17 amended, and federal regulations adopted  
18 pursuant thereto,

19 (c) the exempt wholesale generator facility  
20 sells to purchasers located outside the  
21 state for consumption in activities located  
22 outside the state at least ninety percent  
23 (90%) of the total electrical energy output  
24 which qualifies for the specialized

1 treatment provided by the Energy Policy Act  
2 of 1992, P.L. 102-486, 106 Stat. 2776, as  
3 amended, and federal regulations adopted  
4 pursuant thereto, and

5 (d) the facility is constructed on or after July  
6 1, 1996,

7 (3) those administrative and facilities support  
8 service activities defined or classified in the  
9 NAICS Manual under Industry Group Nos. 5611 and  
10 5612, Industry Nos. 51821, 519130, 52232 and  
11 56142 or U.S. Industry Nos. 524291 and 551114,  
12 those other support activities for air  
13 transportation defined or classified in the NAICS  
14 Manual under Industry Group No. 488190, and those  
15 support, repair, and maintenance service  
16 activities for the wind industry defined or  
17 classified in the NAICS Manual under Industry  
18 Group No. 811310,

19 (4) those professional, scientific and technical  
20 service activities defined or classified in the  
21 NAICS Manual under U.S. Industry Nos. 541710 and  
22 541380,

23 (5) distribution centers for retail or wholesale  
24 businesses defined or classified in the NAICS

1 Manual under Sector No. 42, if forty percent  
2 (40%) or more of the inventory processed through  
3 such warehouse is shipped out-of-state,

4 (6) those adjustment and collection service  
5 activities defined or classified in the NAICS  
6 Manual under U.S. Industry No. 561440, if  
7 seventy-five percent (75%) of the loans to be  
8 serviced were made by out-of-state debtors,

9 (7) (a) those air transportation activities defined  
10 or classified in the NAICS Manual under  
11 Industry Group No. 4811, if the following  
12 facilities are located in this state:

13 (i) the corporate headquarters of an  
14 establishment classified therein, and

15 (ii) a facility or facilities at which  
16 reservations for transportation  
17 provided by such an establishment are  
18 processed, whether such services are  
19 performed by employees of the  
20 establishment, by employees of a  
21 subsidiary of or other entity  
22 affiliated with the establishment or by  
23 employees of an entity with whom the  
24 establishment has contracted for the

1 performance of such services; provided,  
2 this provision shall not disqualify an  
3 establishment which uses an out-of-  
4 state entity or employees for some  
5 reservations services, or

6 (b) those air transportation activities defined  
7 or classified in the NAICS Manual under  
8 Industry Group No. 4811, if an establishment  
9 classified therein has or will have within  
10 one (1) year sales of at least seventy-five  
11 percent (75%) of its total sales, as  
12 determined by the Incentive Approval  
13 Committee pursuant to the provisions of  
14 subsection B of this section, to out-of-  
15 state customers or buyers, to in-state  
16 customers or buyers if the product or  
17 service is resold by the purchaser to an  
18 out-of-state customer or buyer for ultimate  
19 use, or to the federal government,

20 (8) flight training services activities defined or  
21 classified in the NAICS Manual under U.S.  
22 Industry Group No. 611512, which for purposes of  
23 the Oklahoma Quality Jobs Program Act shall  
24 include new direct jobs for which gross payroll

1                   existed on or after January 1, 2003, as  
2                   identified in the NAICS Manual,

3                   (9) the following, if an establishment classified  
4                   therein has or will have within one (1) year  
5                   sales of at least seventy-five percent (75%) of  
6                   its total sales, as determined by the Incentive  
7                   Approval Committee pursuant to the provisions of  
8                   subsection B of this section, to out-of-state  
9                   customers or buyers, to in-state customers or  
10                  buyers if the product or service is resold by the  
11                  purchaser to an out-of-state customer or buyer  
12                  for ultimate use, or to the federal government:

13                  (a) those transportation and warehousing  
14                         activities defined or classified in the  
15                         NAICS Manual under Industry Subsector No.  
16                         493, if not otherwise listed in this  
17                         paragraph, Industry Subsector Nos. 482 and  
18                         484 and Industry Group Nos. 4884 through  
19                         4889,

20                  (b) those passenger transportation activities  
21                         defined or classified in the NAICS Manual  
22                         under Industry Nos. 561510 and 561599,  
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- 1 (c) those freight or cargo transportation  
2 activities defined or classified in the  
3 NAICS Manual under Industry No. 541614,  
4 (d) those insurance activities defined or  
5 classified in the NAICS Manual under  
6 Industry Group No. 5241,  
7 (e) those services to dwellings and other  
8 buildings, as defined or classified in the  
9 NAICS Manual under Industry Group No. 5617,  
10 excluding U.S. Industry Nos. 561730, 56171,  
11 56172, 56174 and 56179,  
12 (f) those equipment rental and leasing  
13 activities defined or classified in the  
14 NAICS Manual under Industry Group No. 5324,  
15 (g) those information technology and other  
16 computer-related service activities defined  
17 or classified in the NAICS Manual under  
18 Industry Group Nos. 5112, 5182, 5191 and  
19 5415,  
20 (h) those business support service activities  
21 defined or classified in the NAICS Manual  
22 under U.S. Industry Nos. 561410 through  
23 561430, excluding 56143, and Industry No.  
24 51911,

- 1 (i) those medical and diagnostic laboratory  
2 activities defined or classified in the  
3 NAICS Manual under Industry Group No. 6215,
- 4 (j) those professional, scientific and technical  
5 service activities defined or classified in  
6 the NAICS Manual under Industry Group Nos.  
7 5412, 5414, 5415, 5416 and 5417, Industry  
8 Nos. 54131, 54133, 54136 and 54137, and U.S.  
9 Industry No. 541990, if not otherwise listed  
10 in this paragraph,
- 11 (k) those communication service activities  
12 defined or classified in the NAICS Manual  
13 under Industry Nos. 51741 and 51791,
- 14 (l) those refuse systems activities defined or  
15 classified in the NAICS Manual under  
16 Industry Group No. 5622, provided that the  
17 establishment is primarily engaged in the  
18 capture and distribution of methane gas  
19 produced within a landfill,
- 20 (m) general wholesale distribution of groceries,  
21 defined or classified in the NAICS Manual  
22 under Industry Group Nos. 4244 and 4245,
- 23 (n) those activities relating to processing of  
24 insurance claims, defined or classified in



1 the NAICS Manual under U.S. Industry Nos.  
2 524210 and 524292; provided, activities  
3 described in U.S. Industry Nos. 524210 and  
4 524292 in the NAICS Manual other than  
5 processing of insurance claims shall not be  
6 included for purposes of this subdivision,

7 (o) those agricultural activities classified in  
8 the NAICS Manual under U.S. Industry Nos.  
9 112120 and 112310,

10 (p) those professional organization activities  
11 classified in the NAICS Manual under U.S.  
12 Industry No. 813920,

13 (q) alternative energy structure construction  
14 classified in the NAICS Manual under U.S.  
15 Industry No. 237130,

16 (r) solar reflective coating application  
17 classified in the NAICS Manual under U.S.  
18 Industry No. 238160,

19 (s) solar heating equipment installation  
20 classified in the NAICS Manual under U.S.  
21 Industry No. 238220,

22 (t) those wired telecommunications carriers  
23 classified in the NAICS Manual under U.S.  
24 Industry No. 517110, and

1 (u) those securities, commodity contracts and  
2 investment activities classified in the  
3 NAICS Manual under Industry Subsector No.  
4 523,

5 (10) those activities related to extraction or  
6 pipeline transportation of petroleum, natural gas  
7 or refined petroleum products, defined or  
8 classified in the NAICS Manual under Industry  
9 Group No. 2111, 213111, 213112 or 486, subject to  
10 the limitations provided in paragraph 3 of this  
11 subsection and paragraph 3 of subsection B of  
12 this section,

13 (11) those activities performed by the federal  
14 civilian workforce at a facility of the Federal  
15 Aviation Administration located in this state if  
16 the Director of the Oklahoma Department of  
17 Commerce determines or is notified that the  
18 federal government is soliciting proposals or  
19 otherwise inviting states to compete for  
20 additional federal civilian employment or  
21 expansion of federal civilian employment at such  
22 facilities,

1           (12) ~~those activities defined or classified in the~~  
2                     ~~NAICS Manual under U.S. Industry No. 711211 (2007~~  
3                     ~~version),~~

4           ~~(13)~~ those real estate or brokerage activities  
5                     classified in the NAICS Manual under U.S.  
6                     Industry No. 53120 for which at least seventy-  
7                     five percent (75%) of the establishment's  
8                     revenues are attributed to out-of-state sales and  
9                     at least seventy-five percent (75%) of the real  
10                    estate transactions generating those revenues are  
11                    attributed to real property located outside the  
12                    State of Oklahoma, or

13           ~~(14)~~ (13) those support activities for rail transportation  
14                     and those support activities for water  
15                     transportation defined or classified in the NAICS  
16                     Manual under U.S. Industry Nos. 4882 and 4883.

17           b. An establishment described in subparagraph a of this  
18                     paragraph shall not be considered to be engaged in a  
19                     basic industry unless it offers, or will offer within  
20                     one hundred eighty (180) days of employment, a basic  
21                     health benefits plan to the individuals it employs in  
22                     new direct jobs in this state which is determined by  
23                     the Oklahoma Department of Commerce to consist of the  
24

1 following elements or elements substantially  
2 equivalent thereto:

- 3 (1) not more than fifty percent (50%) of the premium  
4 shall be paid by the employee,
- 5 (2) coverage for basic hospital care,
- 6 (3) coverage for physician care,
- 7 (4) coverage for mental health care,
- 8 (5) coverage for substance abuse treatment,
- 9 (6) coverage for prescription drugs, and
- 10 (7) coverage for prenatal care;

11 2. "Change-in-control event" means the transfer to one or more  
12 unrelated establishments or unrelated persons, of either:

- 13 a. beneficial ownership of more than fifty percent (50%)  
14 in value and more than fifty percent (50%) in voting  
15 power of the outstanding equity securities of the  
16 transferred establishment, or
- 17 b. more than fifty percent (50%) in value of the assets  
18 of an establishment.

19 A transferor shall be treated as related to a transferee if more  
20 than fifty percent (50%) of the voting interests of the transferor  
21 and transferee are owned, directly or indirectly, by the other or  
22 are owned, directly or indirectly, by the same person or persons,  
23 unless such transferred establishment has an outstanding class of  
24 equity securities registered under Sections 12(b) or 15(d) of the

1 Securities Exchange Act of 1934, as amended, in which event the  
2 transferor and transferee will be treated as unrelated; provided, an  
3 establishment applying for the Oklahoma Quality Jobs Program Act as  
4 a result of a change-in-control event is required to apply within  
5 one hundred eighty (180) days of the change-in-control event to  
6 qualify for consideration. An establishment entering the Oklahoma  
7 Quality Jobs Program Act as the result of a change-in-control event  
8 shall be required to maintain a level of new direct jobs as agreed  
9 to in its contract with the Oklahoma Department of Commerce and to  
10 pay new direct jobs an average annualized wage which equals or  
11 exceeds one hundred twenty-five percent (125%) of the average county  
12 wage as that percentage is determined by the Oklahoma Department of  
13 Commerce based upon the most recent U.S. Department of Commerce data  
14 for the county in which the new jobs are located. For purposes of  
15 this paragraph, healthcare premiums paid by the applicant for  
16 individuals in new direct jobs shall not be included in the  
17 annualized wage. Such establishment entering the Oklahoma Quality  
18 Jobs Program Act as the result of a change-in-control event shall be  
19 required to retain the contracted average annualized wage and  
20 maintain the contracted maintenance level of new direct jobs numbers  
21 as certified by the Tax Commission. If the required average  
22 annualized wage or the required new direct jobs numbers do not equal  
23 or exceed such contracted level during any quarter, the quarterly  
24 incentive payments shall not be made and shall not be resumed until

1 such time as such requirements are met. An establishment described  
2 in this paragraph shall be required to repay all incentive payments  
3 received under the Oklahoma Quality Jobs Program Act if the  
4 establishment is determined by the Tax Commission to no longer have  
5 business operations in the state within three (3) years from the  
6 beginning of the calendar quarter for which the first incentive  
7 payment claim is filed;

8 3. "New direct job":

9 a. means full-time-equivalent employment in this state in  
10 an establishment which has qualified to receive an  
11 incentive payment pursuant to the provisions of the  
12 Oklahoma Quality Jobs Program Act which employment did  
13 not exist in this state prior to the date of approval  
14 by the Department of the application of the  
15 establishment pursuant to the provisions of Section  
16 3604 of this title ~~and with respect to an~~  
17 ~~establishment qualifying for incentive payments~~  
18 ~~pursuant to division (12) of subparagraph a of~~  
19 ~~paragraph 1 of this subsection shall not include~~  
20 ~~compensation paid to an employee or independent~~  
21 ~~contractor for an athletic contest conducted in the~~  
22 ~~state if the compensation is paid by an entity that~~  
23 ~~does not have its principal place of business in the~~  
24 ~~state or that does not own real or personal property~~

1 ~~having a market value of at least One Million Dollars~~  
2 ~~(\$1,000,000.00) located in the state, and the~~  
3 ~~employees or independent contractors of such entity~~  
4 ~~are compensated to compete against the employees or~~  
5 ~~independent contractors of an establishment that~~  
6 ~~qualifies for incentive payments pursuant to division~~  
7 ~~(12) of subparagraph a of paragraph 1 of this~~  
8 ~~subsection and which is organized under Oklahoma law~~  
9 ~~or that is lawfully registered to do business in the~~  
10 ~~state and which does have its principal place of~~  
11 ~~business located in the state and owns real or~~  
12 ~~personal property having a market value of at least~~  
13 ~~One Million Dollars (\$1,000,000.00) located in the~~  
14 ~~state; provided, that if an application of an~~  
15 ~~establishment is approved by the Oklahoma Department~~  
16 ~~of Commerce after a change-in-control event and the~~  
17 ~~Director of the Oklahoma Department of Commerce~~  
18 ~~determines that the jobs located at such establishment~~  
19 ~~are likely to leave the state, "new direct job" shall~~  
20 ~~include employment that existed in this state prior to~~  
21 ~~the date of application which is retained in this~~  
22 ~~state by the new establishment following a change in~~  
23 ~~control event, if such job otherwise qualifies as a~~  
24 ~~new direct job, and~~

1           b.   shall include full-time-equivalent employment in this  
2           state of employees who are employed by an employment  
3           agency or similar entity other than the establishment  
4           which has qualified to receive an incentive payment  
5           and who are leased or otherwise provided under  
6           contract to the qualified establishment, if such job  
7           did not exist in this state prior to the date of  
8           approval by the Department of the application of the  
9           establishment or the job otherwise qualifies as a new  
10          direct job following a change-in-control event. A job  
11          shall be deemed to exist in this state prior to  
12          approval of an application if the activities and  
13          functions for which the particular job exists have  
14          been ongoing at any time within six (6) months prior  
15          to such approval. With respect to establishments  
16          defined in division (10) of subparagraph a of  
17          paragraph 1 of this subsection, new direct jobs shall  
18          be limited to those jobs directly comprising the  
19          corporate headquarters of or directly relating to  
20          manufacturing, maintenance, administrative, financial,  
21          engineering, surveying, geological or geophysical  
22          services performed by the establishment. Under no  
23          circumstances shall employment relating to field  
24          services be considered new direct jobs;



1 4. "Estimated direct state benefits" means the tax revenues  
2 projected by the Department to accrue to the state as a result of  
3 new direct jobs;

4 5. "Estimated direct state costs" means the costs projected by  
5 the Department to accrue to the state as a result of new direct  
6 jobs. Such costs shall include, but not be limited to:

- 7 a. the costs of education of new state resident children,
- 8 b. the costs of public health, public safety and  
9 transportation services to be provided to new state  
10 residents,
- 11 c. the costs of other state services to be provided to  
12 new state residents, and
- 13 d. the costs of other state services;

14 6. "Estimated net direct state benefits" means the estimated  
15 direct state benefits less the estimated direct state costs;

16 7. "Net benefit rate" means the estimated net direct state  
17 benefits computed as a percentage of gross payroll; provided:

- 18 a. except as otherwise provided in this paragraph, the  
19 net benefit rate may be variable and shall not exceed  
20 five percent (5%),
- 21 b. the net benefit rate shall not exceed six percent (6%)  
22 in connection with an establishment which is owned and  
23 operated by an entity which has been awarded a United  
24 States Department of Defense contract for which:

- (1) bids were solicited and accepted by the United States Department of Defense from facilities located outside this state,
- (2) the term is or is renewable for not less than twenty (20) years, and
- (3) the average annual salary, excluding benefits which are not subject to Oklahoma income taxes, for new direct jobs created as a direct result of the awarding of the contract is projected by the Oklahoma Department of Commerce to equal or exceed Forty Thousand Dollars (\$40,000.00) within three (3) years of the date of the first incentive payment,

c. except as otherwise provided in subparagraph d of this paragraph, in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits,

d. the net benefit rate shall be five percent (5%) for an establishment locating:

- (1) in an opportunity zone located in a high-employment county, as such terms are defined in subsection G of Section 3604 of this title, or
- (2) in a county in which:

1 (a) the per capita personal income, as  
2 determined by the Department, is eighty-five  
3 percent (85%) or less of the statewide  
4 average per capita personal income,

5 (b) the population has decreased over the  
6 previous ten (10) years, as determined by  
7 the Oklahoma Department of Commerce based on  
8 the most recent U.S. Department of Commerce  
9 data, or

10 (c) the unemployment rate exceeds the lesser of  
11 five percent (5%) or two percentage points  
12 above the state average unemployment rate as  
13 certified by the Oklahoma Employment  
14 Security Commission,

15 e. the net benefit rate shall not exceed six percent (6%)  
16 in connection with an establishment which:

17 (1) is, as of the date of application, receiving  
18 incentive payments pursuant to the Oklahoma  
19 Quality Jobs Program Act and has been receiving  
20 such payments for at least one (1) year prior to  
21 the date of application, and

22 (2) expands its operations in this state by creating  
23 additional new direct jobs which pay average  
24 annualized wages which equal or exceed one

1                   hundred fifty percent (150%) of the average  
2                   annualized wages of new direct jobs on which  
3                   incentive payments were received during the  
4                   preceding calendar year, and

5       f. ~~with respect to an establishment defined or classified~~  
6       ~~in the NAICS Manual under U.S. Industry No. 711211~~  
7       ~~(2007 version) or any establishment defined or~~  
8       ~~classified in the NAICS Manual as a U.S. Industry~~  
9       ~~Number which is not included within the definition of~~  
10      ~~"basic industry" as such term is defined in this~~  
11      ~~section on April 17, 2008, the net benefit rate shall~~  
12      ~~not exceed the highest rate of income tax imposed upon~~  
13      ~~the Oklahoma taxable income of individuals pursuant to~~  
14      ~~subparagraph (g) or subparagraph (h), as applicable,~~  
15      ~~of paragraph 1 and paragraph 2 of subsection B of~~  
16      ~~Section 2355 of this title. Any change in such~~  
17      ~~highest rate of individual income tax imposed pursuant~~  
18      ~~to the provisions of Section 2355 of this title shall~~  
19      ~~be applicable to the computation of incentive payments~~  
20      ~~to an establishment as described by this subparagraph~~  
21      ~~and shall be effective for purposes of incentive~~  
22      ~~payments based on payroll paid by such establishment~~  
23      ~~on or after January 1 of any applicable year for which~~  
24

1 ~~the net benefit rate is modified as required by this~~  
2 ~~subparagraph, and~~

3 ~~or~~ the net benefit rate shall not exceed six percent (6%)  
4 in connection with an establishment which employs  
5 United States military veterans in at least ten  
6 percent (10%) of its gross payroll. The net benefit  
7 rate for an establishment which employs United States  
8 military veterans in at least ten percent (10%) of its  
9 payroll shall not be lower than five percent (5%).

10 Incentive payments made pursuant to the provisions of this  
11 subparagraph shall be based upon payroll associated with such new  
12 direct jobs. For purposes of this subparagraph, the amount of  
13 health insurance premiums or other benefits paid by the  
14 establishment shall not be included for purposes of computation of  
15 the average annualized wage;

16 8. "Gross payroll" means wages, as defined in Section 2385.1 of  
17 this title for new direct jobs;

18 9. a. "Establishment" means any business or governmental  
19 entity, no matter what legal form, including, but not  
20 limited to, a sole proprietorship; partnership;  
21 limited liability company; corporation or combination  
22 of corporations which have a central parent  
23 corporation which makes corporate management decisions  
24 such as those involving consolidation, acquisition,

1 merger or expansion; federal agency; political  
2 subdivision of the State of Oklahoma; or trust  
3 authority; provided, distinct, identifiable subunits  
4 of such entities may be determined to be an  
5 establishment, for all purposes of the Oklahoma  
6 Quality Jobs Program Act, by the Department subject to  
7 the following conditions:

8 (1) within three (3) years of the first complete  
9 calendar quarter following the start date, the  
10 entity must have a minimum payroll of Two Million  
11 Five Hundred Thousand Dollars (\$2,500,000.00) and  
12 the subunit must also have or will have a minimum  
13 payroll of Two Million Five Hundred Thousand  
14 Dollars (\$2,500,000.00),

15 (2) the subunit is engaged in an activity or service  
16 or produces a product which is demonstratively  
17 independent and separate from the entity's other  
18 activities, services or products and could be  
19 conducted or produced in the absence of any other  
20 activity, service or production of the entity,

21 (3) has an accounting system capable of tracking or  
22 facilitating an audit of the subunit's payroll,  
23 expenses, revenue and production. Limited  
24 interunit overlap of administrative and

1 purchasing functions shall not disqualify a  
2 subunit from consideration as an establishment by  
3 the Department,

4 (4) the entity has not previously had a subunit  
5 determined to be an establishment pursuant to  
6 this section; provided, the restriction set forth  
7 in this division shall not apply to subunits  
8 which qualify pursuant to the provisions of  
9 subparagraph b of paragraph 7 of this subsection,  
10 and

11 (5) it is determined by the Department that the  
12 entity will have a probable net gain in total  
13 employment within the incentive period.

14 b. The Department may promulgate rules to further limit  
15 the circumstances under which a subunit may be  
16 considered an establishment. The Department shall  
17 promulgate rules to determine whether a subunit of an  
18 entity achieves a net gain in total employment. The  
19 Department shall establish criteria for determining  
20 the period of time within which such gain must be  
21 demonstrated and a method for determining net gain in  
22 total employment;

23 10. "NAICS Manual" means any manual, book or other publication  
24 containing the North American Industry Classification System, United

1 States, 1997, promulgated by the Office of Management and Budget of  
2 the United States of America, or the latest revised edition;

3 11. "Qualified federal contract" means a contract between an  
4 agency or instrumentality of the United States government, including  
5 but not limited to the Department of Defense or any branch of the  
6 United States Armed Forces, but exclusive of any contract performed  
7 for the Federal Emergency Management Agency as a direct result of a  
8 natural disaster declared by the Governor or the President of the  
9 United States with respect to damage to property located in Oklahoma  
10 or loss of life or personal injury to persons in Oklahoma, and a  
11 lawfully recognized business entity, whether or not the business  
12 entity is organized under the laws of the State of Oklahoma or  
13 whether or not the principal place of business of the business  
14 entity is located within the State of Oklahoma, for the performance  
15 of services, including but not limited to testing, research,  
16 development, consulting or other services in a basic industry, if  
17 the contract involves the performance of such services performed on  
18 or after July 1, 2009, by the employees of the business entity  
19 within the State of Oklahoma or if the contract involves the  
20 performance of such services performed on or after July 1, 2009, by  
21 employees of a lawfully recognized business entity that is a  
22 subcontractor of the business entity with which the prime contract  
23 has been formed. A qualified federal contract described in this  
24 paragraph shall not qualify unless both the qualified federal



1 contractor and any subcontractors originally involved in the work or  
2 added subsequently during the period of performance verify to the  
3 qualified federal contractor verifier that it offers, or will offer  
4 within one hundred eighty (180) days of employment of its respective  
5 employees, a basic health benefits plan as described in subparagraph  
6 b of paragraph 1 of this subsection to individuals who perform  
7 qualified labor hours in this state;

8 12. "Qualified federal contractor verifier" means a nonprofit  
9 entity organized under the laws of the State of Oklahoma, having an  
10 affiliation with a comprehensive university which is part of The  
11 Oklahoma State System of Higher Education, and having the following  
12 characteristics:

- 13 a. established multiyear classified and unclassified  
14 indefinite-delivery/indefinite-quantity federal  
15 contract vehicles in excess of Fifty Million Dollars  
16 (\$50,000,000.00),
- 17 b. current capability to sponsor and maintain personnel  
18 security clearances and authorized by the federal  
19 government to handle and perform classified work up to  
20 the Top Secret Sensitive Compartmented Information  
21 levels,
- 22 c. at least one on-site federally certified Sensitive  
23 Compartmented Information Facility,

24

- d. on-site secure mass data storage complex with the capability of isolating, segregating and protecting corporate proprietary and classified information,
- e. trusted agent status by maintaining no ownership of, vested interest in, nor royalty production from any intellectual property,
- f. at least one hundred thousand (100,000) square feet of configurable laboratory and support space,
- g. the direct access to restricted air space through a formalized memorandum of agreement with the Department of Defense,
- h. at least five thousand (5,000) acres available for outdoor testing and training facilities, and
- i. the ability to house state-of-the-art surety facilities, including chemical, biological, radiological, explosives, electronics, and unmanned systems laboratories and ranges;

13. "SIC Manual" means the 1987 revision to the Standard Industrial Classification Manual, promulgated by the Office of Management and Budget of the United States of America;

14. "Start date" means the date on which an establishment may begin accruing benefits for the creation of new direct jobs, which date shall be determined by the Department;

1 15. "Effective date" means the date of approval of a contract  
2 under which incentive payments will be made pursuant to the Oklahoma  
3 Quality Jobs Program Act, which shall be the date the signed and  
4 accepted incentive contract is received by the Department; provided,  
5 an approved project may have a start date which is different from  
6 the effective date;

7 16. "Total qualified labor hours" means the reimbursed payment  
8 amount for hours of work performed by the State of Oklahoma  
9 workforce of a qualified federal contractor or the State of Oklahoma  
10 workforce of a subcontractor of a qualified federal contractor and  
11 which are required for the full performance of a qualified federal  
12 contract;

13 17. "Qualified labor rate" means the fully reimbursed labor  
14 rate paid through a qualified federal contract for qualified labor  
15 hours to the qualified federal contractor or subcontractor;

16 18. "Qualified federal contractor" means a business entity:

17 a. maintaining a prime contract with the federal  
18 government as defined in paragraph 11 of this  
19 subsection,

20 b. providing notice of intent to apply to the Department  
21 within one hundred eighty (180) days of July 1, 2010,  
22 or one hundred eighty (180) days of the date of the  
23 award of a qualified federal contract or award of a  
24

1 new qualified subcontract under an existing qualified  
2 federal contract, and

- 3 c. adding substantively to the contract by performing at  
4 least eight percent (8%) of the total labor whether  
5 qualified and nonqualified labor as determined by the  
6 federal contractor verifier on a direct contract or  
7 individual task order or delivery order on an  
8 indefinite-delivery/indefinite-quantity or other  
9 blanket contract vehicle.

10 Should a prime contractor provide notice to the Department of  
11 its intent not to apply for incentive for a qualified federal  
12 contract or fails to qualify under the criteria above,  
13 subcontractors in order of tier ranking as determined by the federal  
14 contract verifier may assume the role of the prime and apply to  
15 become a qualified federal contractor provided the entity meets the  
16 same criteria above with the exception that notice of intent to  
17 apply with the Department must be provided within sixty (60) days of  
18 the prime's disqualification or one hundred eighty (180) days of the  
19 award of its subcontract, whichever is later; and

20 19. "Proxy establishment" means a public trust which:

- 21 a. is organized and existing under Section 176 of Title  
22 60 of the Oklahoma Statutes for the benefit of a  
23 geographic area which includes a city or county or  
24 some combination thereof, and

1           b.    benefits a geographic area where new direct jobs which  
2                    meet the requirements of the Oklahoma Quality Jobs  
3                    Program Act are created by an establishment, other  
4                    than the proxy establishment, which is a branch of the  
5                    Armed Forces of the United States.

6           A proxy establishment may be determined to be an establishment  
7 for all purposes of the Oklahoma Quality Jobs Program Act by the  
8 Department and incentive payments may be made to such proxy  
9 establishment for new direct jobs otherwise qualified pursuant to  
10 the Oklahoma Quality Jobs Program Act. The Department may  
11 promulgate rules to further specify the circumstances under which a  
12 proxy establishment may be considered an establishment for the  
13 purposes of making application for incentive payments pursuant to  
14 the Oklahoma Quality Jobs Program Act. Provided however, that with  
15 respect to any data on qualifying direct new jobs from a branch of  
16 the Armed Forces of the United States, such rules shall only require  
17 a proxy establishment to provide such data as would otherwise be  
18 publicly releasable by the branch of the Armed Forces of the United  
19 States.

20           B.    The Incentive Approval Committee is hereby created and shall  
21 consist of the Director of the Office of Management and Enterprise  
22 Services, the Director of the Department and one member of the  
23 Oklahoma Tax Commission appointed by the Tax Commission, or a  
24 designee from each agency approved by such member. It shall be the

1 duty of the Committee to determine the eligibility of all applicants  
2 for the Oklahoma Quality Jobs Program Act, subject to the applicable  
3 requirements.

4 C. For an establishment defined as a "basic industry" pursuant  
5 to division (4) of subparagraph a of paragraph 1 of subsection A of  
6 this section, the Incentive Approval Committee shall consist of the  
7 members provided by subsection B of this section and the Executive  
8 Director of the Oklahoma Center for the Advancement of Science and  
9 Technology, or a designee from the Center appointed by the Executive  
10 Director.

11 SECTION 2. AMENDATORY 68 O.S. 2011, Section 3604, as  
12 last amended by Section 2, Chapter 144, O.S.L. 2018 (68 O.S. Supp.  
13 2020, Section 3604), is amended to read as follows:

14 Section 3604. A. Except as otherwise provided in subsection I  
15 or subsection L of this section, an establishment which meets the  
16 qualifications specified in the Oklahoma Quality Jobs Program Act  
17 may receive quarterly incentive payments for a ten-year period from  
18 the Oklahoma Tax Commission pursuant to the provisions of the  
19 Oklahoma Quality Jobs Program Act; ~~provided, such an establishment~~  
20 ~~defined or classified in the NAICS Manual under U.S. Industry No.~~  
21 ~~711211 (2007 version) may receive quarterly incentive payments for a~~  
22 ~~fifteen-year period.~~ The amount of such payments shall be equal to  
23 the net benefit rate multiplied by the actual gross payroll of new  
24

1 direct jobs for a calendar quarter as verified by the Oklahoma  
2 Employment Security Commission.

3 B. In order to receive incentive payments, an establishment  
4 shall apply to the Oklahoma Department of Commerce. The application  
5 shall be on a form prescribed by the Department and shall contain  
6 such information as may be required by the Department to determine  
7 if the applicant is qualified. An establishment may apply for an  
8 effective date for a project, which shall not be more than twenty-  
9 four (24) months from the date the application is submitted to the  
10 Department.

11 C. Except as otherwise provided by subsection D or E of this  
12 section, in order to qualify to receive such payments, the  
13 establishment applying shall be required to:

14 1. Be engaged in a basic industry;

15 2. Have an annual gross payroll for new direct jobs projected  
16 by the Department to equal or exceed Two Million Five Hundred  
17 Thousand Dollars (\$2,500,000.00) within three (3) years of the first  
18 complete calendar quarter following the start date; and

19 3. Have a number of full-time-equivalent employees subject to  
20 the tax imposed by Section 2355 of this title and working an annual  
21 average of thirty (30) or more hours per week in new direct jobs  
22 located in this state equal to or in excess of eighty percent (80%)  
23 of the total number of new direct jobs.

24

1 D. In order to qualify to receive incentive payments as  
2 authorized by the Oklahoma Quality Jobs Program Act, an  
3 establishment engaged in an activity described under:

4 1. Industry Group Nos. 3111 through 3119 of the NAICS Manual  
5 shall be required to:

- 6 a. have an annual gross payroll for new direct jobs  
7 projected by the Department to equal or exceed One  
8 Million Five Hundred Thousand Dollars (\$1,500,000.00)  
9 within three (3) years of the first complete calendar  
10 quarter following the start date and make, or which  
11 will make within one (1) year, at least seventy-five  
12 percent (75%) of its total sales, as determined by the  
13 Incentive Approval Committee pursuant to the  
14 provisions of subsection B of Section 3603 of this  
15 title, to out-of-state customers or buyers, to in-  
16 state customers or buyers if the product or service is  
17 resold by the purchaser to an out-of-state customer or  
18 buyer for ultimate use, or to the federal government,  
19 unless the annual gross payroll equals or exceeds Two  
20 Million Five Hundred Thousand Dollars (\$2,500,000.00)  
21 in which case the requirements for purchase of output  
22 provided by this subparagraph shall not apply, and  
23 b. have a number of full-time-equivalent employees  
24 working an average of thirty (30) or more hours per



1 week in new direct jobs equal to or in excess of  
2 eighty percent (80%) of the total number of new direct  
3 jobs; and

4 2. Division (4) of subparagraph a of paragraph 1 of subsection  
5 A of Section 3603 of this title, shall be required to:

6 a. have an annual gross payroll for new direct jobs  
7 projected by the Department to equal or exceed One  
8 Million Five Hundred Thousand Dollars (\$1,500,000.00)  
9 within three (3) years of the first complete calendar  
10 quarter following the start date, and

11 b. have a number of full-time-equivalent employees  
12 working an average of thirty (30) or more hours per  
13 week in new direct jobs equal to or in excess of  
14 eighty percent (80%) of the total number of new direct  
15 jobs.

16 E. 1. An establishment which locates its principal business  
17 activity within a site consisting of at least ten (10) acres which:

18 a. is a federal Superfund removal site,  
19 b. is listed on the National Priorities List established  
20 under Section 9605 of Title 42 of the United States  
21 Code,

22 c. has been formally deferred to the state in lieu of  
23 listing on the National Priorities List, or  
24

1           d.    has been determined by the Department of Environmental  
2                   Quality to be contaminated by any substance regulated  
3                   by a federal or state statute governing environmental  
4                   conditions for real property pursuant to an order of  
5                   the Department of Environmental Quality,  
6 shall qualify for incentive payments irrespective of its actual  
7 gross payroll or the number of full-time-equivalent employees  
8 engaged in new direct jobs.

9           2.    In order to qualify for the incentive payments pursuant to  
10 this subsection, the establishment shall conduct the activity  
11 resulting in at least fifty percent (50%) of its Oklahoma taxable  
12 income or adjusted gross income, as determined under Section 2358 of  
13 this title, whether from the sale of products or services or both  
14 products and services, at the physical location which has been  
15 determined not to comply with the federal or state statutes  
16 described in this subsection with respect to environmental  
17 conditions for real property. The establishment shall be subject to  
18 all other requirements of the Oklahoma Quality Jobs Program Act  
19 other than the exemptions provided by this subsection.

20           3.    In order to qualify for the incentive payments pursuant to  
21 this subsection, the entity shall obtain from the Department of  
22 Environmental Quality a letter of concurrence that:  
23  
24

1 a. the site designated by the entity does meet one or  
2 more of the requirements listed in paragraph 1 of this  
3 subsection, and

4 b. the site is being or has been remediated to a level  
5 which is consistent with the intended use of the  
6 property.

7 In making its determination, the Department of Environmental  
8 Quality may rely on existing data and information available to it,  
9 but may also require the applying entity to provide additional data  
10 and information as necessary.

11 4. If authorized by the Department of Environmental Quality  
12 pursuant to paragraph 3 of this subsection, the entity may utilize a  
13 remediated portion of the property for its intended purpose prior to  
14 remediation of the remainder of the site, and shall qualify for  
15 incentive payments based on employment associated with the portion  
16 of the site.

17 F. Except as otherwise provided by subsection G of this  
18 section, for applications submitted on and after June 4, 2003, in  
19 order to qualify to receive incentive payments as authorized by the  
20 Oklahoma Quality Jobs Program Act, in addition to other  
21 qualifications specified herein, an establishment shall be required  
22 to pay new direct jobs an average annualized wage which equals or  
23 exceeds:

1           1. One hundred ten percent (110%) of the average county wage as  
2 determined by the Department of Commerce based on the most recent  
3 U.S. Department of Commerce data for the county in which the new  
4 direct jobs are located. For purposes of this paragraph, health  
5 care premiums paid by the applicant for individuals in new direct  
6 jobs shall be included in the annualized wage; or

7           2. One hundred percent (100%) of the average county wage as  
8 that percentage is determined by the Department of Commerce based  
9 upon the most recent U.S. Department of Commerce data for the county  
10 in which the new jobs are located. For purposes of this paragraph,  
11 health care premiums paid by the applicant for individuals in new  
12 direct jobs shall not be included in the annualized wage.

13           Provided, no average wage requirement shall exceed Twenty-five  
14 Thousand Dollars (\$25,000.00), in any county. This maximum wage  
15 threshold shall be indexed and modified from time to time based on  
16 the latest Consumer Price Index year-to-date percent change release  
17 as of the date of the annual average county wage data release from  
18 the Bureau of Economic Analysis of the U.S. Department of Commerce.

19           G. 1. As used in this subsection, "opportunity zone" means one  
20 or more census tracts in which, according to the most recent Federal  
21 Decennial Census, at least thirty percent (30%) of the residents  
22 have annual gross household incomes from all sources below the  
23 poverty guidelines established by the U.S. Department of Health and  
24 Human Services. An establishment which is otherwise qualified to

1 receive incentive payments and which locates its principal business  
2 activity in an opportunity zone shall not be subject to the  
3 requirements of subsection F of this section.

4 2. As used in this subsection:

5 a. "negative economic event" means:

6 (1) a man-made disaster or natural disaster as  
7 defined in Section 683.3 of Title 63 of the  
8 Oklahoma Statutes, resulting in the loss of a  
9 significant number of jobs within a particular  
10 county of this state, or

11 (2) an economic circumstance in which a significant  
12 number of jobs within a particular county of this  
13 state have been lost due to an establishment  
14 changing its structure, consolidating with  
15 another establishment, closing or moving all or  
16 part of its operations out of this state, and

17 b. "significant number of jobs" means Local Area  
18 Unemployment Statistics (LAUS) data, as determined by  
19 the Bureau of Labor Statistics, for a county which are  
20 equal to or in excess of five percent (5%) of the  
21 total amount of Local Area Unemployment Statistics  
22 (LAUS) data for that county for the calendar year, or  
23 most recent twelve-month period in which employment is  
24 measured, preceding the event.

1 An establishment which is otherwise qualified to receive  
2 incentive payments and which locates in a county in which a negative  
3 economic event has occurred within the eighteen-month period  
4 preceding the start date shall not be subject to the requirements of  
5 subsection F of this section; provided, an establishment shall not  
6 be eligible to receive incentive payments based upon a negative  
7 economic event with respect to jobs that are transferred from one  
8 county of this state to another.

9 H. The Department shall determine if the applicant is qualified  
10 to receive incentive payments.

11 I. If the applicant is determined to be qualified by the  
12 Department and is not subject to the provisions of subparagraph d of  
13 paragraph 7 of subsection A of Section 3603 of this title, the  
14 Department shall conduct a cost/benefit analysis to determine the  
15 estimated net direct state benefits and the net benefit rate  
16 applicable for a ten-year period beginning with the first complete  
17 calendar quarter following the start date and to estimate the amount  
18 of gross payroll for a ten-year period beginning with the first  
19 complete calendar quarter following the start date ~~or for a fifteen-~~  
20 ~~year period for an establishment defined or classified in the NAICS~~  
21 ~~Manual under U.S. Industry No. 711211 (2007 version).~~ In conducting  
22 such cost/benefit analysis, the Department shall consider  
23 quantitative factors, such as the anticipated level of new tax  
24 revenues to the state along with the added cost to the state of

1 providing services, and such other criteria as deemed appropriate by  
2 the Department. In no event shall incentive payments, cumulatively,  
3 exceed the estimated net direct state benefits, except for  
4 applicants subject to the provisions of subparagraph d of paragraph  
5 7 of subsection A of Section 3603 of this title.

6 J. Upon approval of such an application, the Department shall  
7 notify the Tax Commission and shall provide it with a copy of the  
8 contract and the results of the cost/benefit analysis. The Tax  
9 Commission may require the qualified establishment to submit such  
10 additional information as may be necessary to administer the  
11 provisions of the Oklahoma Quality Jobs Program Act. The approved  
12 establishment shall file quarterly claims with the Tax Commission  
13 and shall continue to file such quarterly claims during the ten-year  
14 incentive period to show its continued eligibility for incentive  
15 payments, as provided in Section 3606 of this title, or until it is  
16 no longer qualified to receive incentive payments. The  
17 establishment may be audited by the Tax Commission to verify such  
18 eligibility. Once the establishment is approved, an agreement shall  
19 be deemed to exist between the establishment and the State of  
20 Oklahoma, requiring the continued incentive payment to be made as  
21 long as the establishment retains its eligibility as defined in and  
22 established pursuant to this section and Sections 3603 and 3606 of  
23 this title and within the limitations contained in the Oklahoma  
24 Quality Jobs Program Act, which existed at the time of such

1 approval. An establishment described in this subsection shall be  
2 required to repay all incentive payments received under the Oklahoma  
3 Quality Jobs Program Act if the establishment is determined by the  
4 Oklahoma Tax Commission to no longer have business operations in the  
5 state within three (3) years from the beginning of the calendar  
6 quarter for which the first incentive payment claim is filed.

7 K. A municipality with a population of less than one hundred  
8 thousand (100,000) persons in which an establishment eligible to  
9 receive quarterly incentive payments pursuant to the provisions of  
10 this section is located may file a claim with the Tax Commission for  
11 up to twenty-five percent (25%) of the amount of such payment. The  
12 amount of such claim shall not exceed amounts paid by the  
13 municipality for direct costs of municipal infrastructure  
14 improvements to provide water and sewer service to the  
15 establishment. Such claim shall not be approved by the Tax  
16 Commission unless the municipality and the establishment have  
17 entered into a written agreement for such claims to be filed by the  
18 municipality prior to submission of the application of the  
19 establishment pursuant to the provisions of this section. If such  
20 claim is approved, the amount of the payment to the establishment  
21 made pursuant to the provisions of Section 3606 of this title shall  
22 be reduced by the amount of the approved claim by the municipality  
23 and the Tax Commission shall issue a warrant to the municipality in  
24



1 the amount of the approved claim in the same manner as warrants are  
2 issued to qualifying establishments.

3 L. For any contract executed by an establishment on or after  
4 the effective date of this act, five percent (5%) of the quarterly  
5 incentive payment amount shall be transferred by the Oklahoma Tax  
6 Commission to the Oklahoma Quick Action Closing Fund.

7 SECTION 3. AMENDATORY 68 O.S. 2011, Section 3606, as  
8 last amended by Section 1, Chapter 138, O.S.L. 2020 (68 O.S. Supp.  
9 2020, Section 3606), is amended to read as follows:

10 Section 3606. A. As soon as practicable after the end of the  
11 first complete calendar quarter following the start date, the  
12 establishment shall file a claim for the payment with the Oklahoma  
13 Tax Commission and shall specify the actual number and gross payroll  
14 of new direct jobs for the establishment for the calendar quarter.  
15 The Tax Commission shall verify the actual gross payroll for new  
16 direct jobs for the establishment for such calendar quarter. If the  
17 Tax Commission is not able to provide such verification utilizing  
18 all available resources, the Tax Commission may request such  
19 additional information from the establishment as may be necessary or  
20 may request the establishment to revise its claim. An establishment  
21 may file for an extension of the initial filing date with the  
22 Oklahoma Department of Commerce. Any such extension shall be based  
23 solely upon an extraordinary adverse business circumstance which  
24 prevented the establishment from hiring the new direct jobs as

1 projected. If an establishment fails to file claims as required by  
2 this section, it shall forfeit the right to receive any incentive  
3 payments after three (3) years from the start date. If an  
4 establishment has filed at least one claim pursuant to this section  
5 but fails to file another claim within two (2) years of the most  
6 recent claim, the Tax Commission, after consulting with the  
7 Department of Commerce, may dismiss the establishment from the  
8 program, forfeiting the establishment's right to receive incentive  
9 payments based on that contract.

10 B. 1. Except as otherwise provided in paragraph 2 of this  
11 subsection, if the actual verified gross payroll for four (4)  
12 consecutive calendar quarters does not equal or exceed the  
13 applicable total required by Section 3604 of this title within three  
14 (3) years of the start date, or does not equal or exceed the  
15 applicable total required by Section 3604 of this title at any other  
16 time during the ten-year period after the start date ~~or during the~~  
17 ~~fifteen-year period after the start date for establishments defined~~  
18 ~~or classified in the NAICS Manual under U.S. Industry No. 711211~~  
19 ~~(2007 version)~~, the incentive payments shall not be made and shall  
20 not be resumed until such time as the actual verified gross payroll  
21 equals or exceeds the amounts specified in Section 3604 of this  
22 title. If an establishment fails to achieve the required gross  
23 payroll within three (3) years of the start date, the establishment  
24 shall not make a new or renewal application for incentive payments

1 authorized pursuant to the Oklahoma Quality Jobs Program Act for a  
2 period of twelve (12) months from the last day of the last month of  
3 the three-year period during which the required gross payroll amount  
4 was not achieved.

5 2. Any establishment which does not meet the quarterly payroll  
6 requirements provided pursuant to paragraph 1 of this subsection  
7 during the time period which begins on April 1, 2020, and ends on  
8 June 30, 2021, shall continue to receive incentive payments and  
9 shall be exempt from the prescribed limitations.

10 C. If the average annualized wage required for an establishment  
11 does not equal or exceed the amount specified in paragraph 1 or 2 of  
12 subsection F of Section 3604 of this title during any calendar  
13 quarter, the incentive payments shall not be made and shall not be  
14 resumed until such time as such requirements are met.

15 D. In no event shall incentive payments, cumulatively, exceed  
16 the estimated net direct state benefits, except for establishments  
17 subject to the provisions of subparagraph d of paragraph 7 of  
18 subsection A of Section 3603 of this title.

19 E. An establishment that has qualified pursuant to Section 3604  
20 of this title may receive payments only in accordance with the  
21 provisions of the law under which it initially applied and was  
22 approved. If an establishment that is receiving incentive payments  
23 expands, it may apply for additional incentive payments based on the  
24 gross payroll anticipated from the expansion only, pursuant to

1 Section 3604 of this title. Provided, an establishment which has  
2 suffered an extraordinary adverse business circumstance, as  
3 certified by the Incentive Approval Committee, may be allowed to  
4 voluntarily withdraw from the Oklahoma Quality Jobs Program, repay  
5 to the Tax Commission the total amount of incentive payments  
6 received pursuant to the provisions of this section, plus interest  
7 at the rate specified in Section 727.1 of Title 12 of the Oklahoma  
8 Statutes, and reapply to the Department for a new incentive contract  
9 if the establishment qualifies pursuant to the provisions of the  
10 Oklahoma Quality Jobs Program Act. Any funds received by the Tax  
11 Commission pursuant to the provisions of this subsection shall be  
12 apportioned in the manner that income tax revenues are apportioned.

13 F. An establishment that is receiving incentive payments may  
14 not apply for additional incentive payments for any new projects  
15 until twelve (12) quarters after receipt of the first incentive  
16 payment, or until the establishment's actual verified gross payroll  
17 for new direct jobs equals or exceeds Two Million Five Hundred  
18 Thousand Dollars (\$2,500,000.00) during any four consecutive-  
19 calendar-quarter period, whichever comes first. After meeting the  
20 requirements of this subsection, an establishment may apply for  
21 additional incentive payments based upon the gross payroll  
22 anticipated from an expansion only.

23 G. As soon as practicable after verification of the actual  
24 gross payroll as required by this section and except as otherwise

1 provided by subsection K of Section 3604 of this title, the Tax  
2 Commission shall issue a warrant to the establishment in the amount  
3 of the net benefit rate multiplied by the actual gross payroll as  
4 determined pursuant to subsection A of this section for the calendar  
5 quarter.

6 SECTION 4. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 3603.1A-1 of Title 68, unless  
8 there is created a duplication in numbering, reads as follows:

9 Upon the effective date of this act, the incentive payments  
10 previously authorized to be paid to an establishment described by  
11 Industry No. 711211 of the North American Industry Classification  
12 System (NAICS), 2007 Version, pursuant to division (12) of  
13 subparagraph a of paragraph 1 of subsection A of Section 3603 of  
14 Title 68 of the Oklahoma Statutes as such paragraph described the  
15 establishment at the time the Oklahoma Department of Commerce and  
16 the establishment entered into the original contract for payment of  
17 such incentive amounts, shall cease and no further payments to the  
18 establishment shall be made pursuant to the provisions of the  
19 Oklahoma Quality Jobs Program Act.

20 SECTION 5. It being immediately necessary for the preservation  
21 of the public peace, health or safety, an emergency is hereby  
22  
23  
24

1 declared to exist, by reason whereof this act shall take effect and  
2 be in full force from and after its passage and approval.

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