

1 ENGROSSED SENATE  
BILL NO. 586

By: Hall of the Senate

2  
3 and

4 Kane of the House

5  
6 An Act relating to incentives; amending 68 O.S. 2021,  
7 Section 3603, which relates to the Oklahoma Quality  
8 Jobs Program Act; modifying definition to establish  
9 relationship between establishment and certain leased  
10 or contracted employee; and providing an effective  
11 date.

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

13 SECTION 1. AMENDATORY 68 O.S. 2021, Section 3603, is  
14 amended to read as follows:

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

17 1. a. "Basic industry" means:

18 (1) those manufacturing activities defined or  
19 classified in the NAICS Manual under Industry  
20 Sector Nos. 31, 32 and 33, Industry Group No.  
21 5111 or Industry No. 11331,

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

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

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

13 (c) the exempt wholesale generator facility  
14 sells to purchasers located outside the  
15 state for consumption in activities located  
16 outside the state at least ninety percent  
17 (90%) of the total electrical energy output  
18 which qualifies for the specialized  
19 treatment provided by the Energy Policy Act  
20 of 1992, P.L. 102-486, 106 Stat. 2776, as  
21 amended, and federal regulations adopted  
22 pursuant thereto, and

23 (d) the facility is constructed on or after July  
24 1, 1996,

1 (3) those administrative and facilities support  
2 service activities defined or classified in the  
3 NAICS Manual under Industry Group Nos. 5611 and  
4 5612, Industry Nos. 51821, 519130, 52232 and  
5 56142 or U.S. Industry Nos. 524291 and 551114,  
6 those other support activities for air  
7 transportation defined or classified in the NAICS  
8 Manual under Industry Group No. 488190, and those  
9 support, repair, and maintenance service  
10 activities for the wind industry defined or  
11 classified in the NAICS Manual under Industry  
12 Group No. 811310,

13 (4) those professional, scientific and technical  
14 service activities defined or classified in the  
15 NAICS Manual under U.S. Industry Nos. 541710 and  
16 541380,

17 (5) distribution centers for retail or wholesale  
18 businesses defined or classified in the NAICS  
19 Manual under Sector No. 42, if forty percent  
20 (40%) or more of the inventory processed through  
21 such warehouse is shipped out-of-state,

22 (6) those adjustment and collection service  
23 activities defined or classified in the NAICS  
24 Manual under U.S. Industry No. 561440, if

1                   seventy-five percent (75%) of the loans to be  
2                   serviced were made by out-of-state debtors,

3           (7)   (a)   those air transportation activities defined  
4                   or classified in the NAICS Manual under  
5                   Industry Group No. 4811, if the following  
6                   facilities are located in this state:

7                   (i)   the corporate headquarters of an  
8                   establishment classified therein, and

9                   (ii) a facility or facilities at which  
10                   reservations for transportation  
11                   provided by such an establishment are  
12                   processed, whether such services are  
13                   performed by employees of the  
14                   establishment, by employees of a  
15                   subsidiary of or other entity  
16                   affiliated with the establishment or by  
17                   employees of an entity with whom the  
18                   establishment has contracted for the  
19                   performance of such services; provided,  
20                   this provision shall not disqualify an  
21                   establishment which uses an out-of-  
22                   state entity or employees for some  
23                   reservations services, or

24

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

15 (8) flight training services activities defined or  
16 classified in the NAICS Manual under U.S.  
17 Industry Group No. 611512, which for purposes of  
18 the Oklahoma Quality Jobs Program Act shall  
19 include new direct jobs for which gross payroll  
20 existed on or after January 1, 2003, as  
21 identified in the NAICS Manual,

22 (9) the following, if an establishment classified  
23 therein has or will have within one (1) year  
24 sales of at least seventy-five percent (75%) of

1 its total sales, as determined by the Incentive  
2 Approval Committee pursuant to the provisions of  
3 subsection B of this section, to out-of-state  
4 customers or buyers, to in-state customers or  
5 buyers if the product or service is resold by the  
6 purchaser to an out-of-state customer or buyer  
7 for ultimate use, or to the federal government:

8 (a) those transportation and warehousing  
9 activities defined or classified in the  
10 NAICS Manual under Industry Subsector No.  
11 493, if not otherwise listed in this  
12 paragraph, Industry Subsector Nos. 482 and  
13 484 and Industry Group Nos. 4884 through  
14 4889,

15 (b) those passenger transportation activities  
16 defined or classified in the NAICS Manual  
17 under Industry Nos. 561510 and 561599,

18 (c) those freight or cargo transportation  
19 activities defined or classified in the  
20 NAICS Manual under Industry No. 541614,

21 (d) those insurance activities defined or  
22 classified in the NAICS Manual under  
23 Industry Group No. 5241,  
24

1 (e) those services to dwellings and other  
2 buildings, as defined or classified in the  
3 NAICS Manual under Industry Group No. 5617,  
4 excluding U.S. Industry Nos. 561730, 56171,  
5 56172, 56174 and 56179,

6 (f) those equipment rental and leasing  
7 activities defined or classified in the  
8 NAICS Manual under Industry Group No. 5324,

9 (g) those information technology and other  
10 computer-related service activities defined  
11 or classified in the NAICS Manual under  
12 Industry Group Nos. 5112, 5182, 5191 and  
13 5415,

14 (h) those business support service activities  
15 defined or classified in the NAICS Manual  
16 under U.S. Industry Nos. 561410 through  
17 561430, excluding 56143, and Industry No.  
18 51911,

19 (i) those medical and diagnostic laboratory  
20 activities defined or classified in the  
21 NAICS Manual under Industry Group No. 6215,

22 (j) those professional, scientific and technical  
23 service activities defined or classified in  
24 the NAICS Manual under Industry Group Nos.

1 5412, 5414, 5415, 5416 and 5417, Industry  
2 Nos. 54131, 54133, 54136 and 54137, and U.S.  
3 Industry No. 541990, if not otherwise listed  
4 in this paragraph,

5 (k) those communication service activities  
6 defined or classified in the NAICS Manual  
7 under Industry Nos. 51741 and 51791,

8 (l) those refuse systems activities defined or  
9 classified in the NAICS Manual under  
10 Industry Group No. 5622, provided that the  
11 establishment is primarily engaged in the  
12 capture and distribution of methane gas  
13 produced within a landfill,

14 (m) general wholesale distribution of groceries,  
15 defined or classified in the NAICS Manual  
16 under Industry Group Nos. 4244 and 4245,

17 (n) those activities relating to processing of  
18 insurance claims, defined or classified in  
19 the NAICS Manual under U.S. Industry Nos.  
20 524210 and 524292; provided, activities  
21 described in U.S. Industry Nos. 524210 and  
22 524292 in the NAICS Manual other than  
23 processing of insurance claims shall not be  
24 included for purposes of this subdivision,



- 1 (o) those agricultural activities classified in  
2 the NAICS Manual under U.S. Industry Nos.  
3 112120 and 112310,
- 4 (p) those professional organization activities  
5 classified in the NAICS Manual under U.S.  
6 Industry No. 813920,
- 7 (q) alternative energy structure construction  
8 classified in the NAICS Manual under U.S.  
9 Industry No. 237130,
- 10 (r) solar reflective coating application  
11 classified in the NAICS Manual under U.S.  
12 Industry No. 238160,
- 13 (s) solar heating equipment installation  
14 classified in the NAICS Manual under U.S.  
15 Industry No. 238220,
- 16 (t) those wired telecommunications carriers  
17 classified in the NAICS Manual under U.S.  
18 Industry No. 517110, and
- 19 (u) those securities, commodity contracts and  
20 investment activities classified in the  
21 NAICS Manual under Industry Subsector No.  
22 523,
- 23 (10) those activities related to extraction or  
24 pipeline transportation of petroleum, natural gas

1 or refined petroleum products, defined or  
2 classified in the NAICS Manual under Industry  
3 Group No. 2111, 213111, 213112 or 486, subject to  
4 the limitations provided in paragraph 3 of this  
5 subsection and paragraph 3 of subsection B of  
6 this section,

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

17 (12) those activities defined or classified in the  
18 NAICS Manual under U.S. Industry No. 711211 (2007  
19 version),

20 (13) those real estate or brokerage activities  
21 classified in the NAICS Manual under U.S.  
22 Industry No. 53120 for which at least seventy-  
23 five percent (75%) of the establishment's  
24 revenues are attributed to out-of-state sales and

1 at least seventy-five percent (75%) of the real  
2 estate transactions generating those revenues are  
3 attributed to real property located outside the  
4 State of Oklahoma, or

5 (14) those support activities for rail transportation  
6 and those support activities for water  
7 transportation defined or classified in the NAICS  
8 Manual under U.S. Industry Nos. 4882 and 4883.

9 b. An establishment described in subparagraph a of this  
10 paragraph shall not be considered to be engaged in a  
11 basic industry unless it offers, or will offer within  
12 one hundred eighty (180) days of employment, a basic  
13 health benefits plan to the individuals it employs in  
14 new direct jobs in this state which is determined by  
15 the Oklahoma Department of Commerce to consist of the  
16 following elements or elements substantially  
17 equivalent thereto:

- 18 (1) not more than fifty percent (50%) of the premium  
19 shall be paid by the employee,  
20 (2) coverage for basic hospital care,  
21 (3) coverage for physician care,  
22 (4) coverage for mental health care,  
23 (5) coverage for substance abuse treatment,  
24 (6) coverage for prescription drugs, and

1 (7) coverage for prenatal care;

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

- 4 a. beneficial ownership of more than fifty percent (50%)  
5 in value and more than fifty percent (50%) in voting  
6 power of the outstanding equity securities of the  
7 transferred establishment, or  
8 b. more than fifty percent (50%) in value of the assets  
9 of an establishment.

10 A transferor shall be treated as related to a transferee if more  
11 than fifty percent (50%) of the voting interests of the transferor  
12 and transferee are owned, directly or indirectly, by the other or  
13 are owned, directly or indirectly, by the same person or persons,  
14 unless such transferred establishment has an outstanding class of  
15 equity securities registered under Sections 12(b) or 15(d) of the  
16 Securities Exchange Act of 1934, as amended, in which event the  
17 transferor and transferee will be treated as unrelated; provided, an  
18 establishment applying for the Oklahoma Quality Jobs Program Act as  
19 a result of a change-in-control event is required to apply within  
20 one hundred eighty (180) days of the change-in-control event to  
21 qualify for consideration. An establishment entering the Oklahoma  
22 Quality Jobs Program Act as the result of a change-in-control event  
23 shall be required to maintain a level of new direct jobs as agreed  
24 to in its contract with the Oklahoma Department of Commerce and to

1 pay new direct jobs an average annualized wage which equals or  
2 exceeds one hundred twenty-five percent (125%) of the average county  
3 wage as that percentage is determined by the Oklahoma Department of  
4 Commerce based upon the most recent U.S. Department of Commerce data  
5 for the county in which the new jobs are located. For purposes of  
6 this paragraph, healthcare premiums paid by the applicant for  
7 individuals in new direct jobs shall not be included in the  
8 annualized wage. Such establishment entering the Oklahoma Quality  
9 Jobs Program Act as the result of a change-in-control event shall be  
10 required to retain the contracted average annualized wage and  
11 maintain the contracted maintenance level of new direct jobs numbers  
12 as certified by the Tax Commission. If the required average  
13 annualized wage or the required new direct jobs numbers do not equal  
14 or exceed such contracted level during any quarter, the quarterly  
15 incentive payments shall not be made and shall not be resumed until  
16 such time as such requirements are met. An establishment described  
17 in this paragraph shall be required to repay all incentive payments  
18 received under the Oklahoma Quality Jobs Program Act if the  
19 establishment is determined by the Tax Commission to no longer have  
20 business operations in the state within three (3) years from the  
21 beginning of the calendar quarter for which the first incentive  
22 payment claim is filed;

23 3. "New direct job":  
24

1 a. means full-time-equivalent employment in this state in  
2 an establishment which has qualified to receive an  
3 incentive payment pursuant to the provisions of the  
4 Oklahoma Quality Jobs Program Act which employment did  
5 not exist in this state prior to the date of approval  
6 by the Department of the application of the  
7 establishment pursuant to the provisions of Section  
8 3604 of this title and with respect to an  
9 establishment qualifying for incentive payments  
10 pursuant to division (12) of subparagraph a of  
11 paragraph 1 of this subsection shall not include  
12 compensation paid to an employee or independent  
13 contractor for an athletic contest conducted in the  
14 state if the compensation is paid by an entity that  
15 does not have its principal place of business in the  
16 state or that does not own real or personal property  
17 having a market value of at least One Million Dollars  
18 (\$1,000,000.00) located in the state, and the  
19 employees or independent contractors of such entity  
20 are compensated to compete against the employees or  
21 independent contractors of an establishment that  
22 qualifies for incentive payments pursuant to division  
23 (12) of subparagraph a of paragraph 1 of this  
24 subsection and which is organized under Oklahoma law

1 or that is lawfully registered to do business in the  
2 state and which does have its principal place of  
3 business located in the state and owns real or  
4 personal property having a market value of at least  
5 One Million Dollars (\$1,000,000.00) located in the  
6 state; provided, that if an application of an  
7 establishment is approved by the Oklahoma Department  
8 of Commerce after a change-in-control event and the  
9 Director of the Oklahoma Department of Commerce  
10 determines that the jobs located at such establishment  
11 are likely to leave the state, "new direct job" shall  
12 include employment that existed in this state prior to  
13 the date of application which is retained in this  
14 state by the new establishment following a change in  
15 control event, if such job otherwise qualifies as a  
16 new direct job, and

- 17 b. shall include full-time-equivalent employment in this  
18 state of employees who are employed by an employment  
19 agency or similar entity other than the establishment  
20 which has qualified to receive an incentive payment  
21 and who are leased or otherwise provided under  
22 contract to the qualified establishment, if such job  
23 did not exist in this state prior to the date of  
24 approval by the Department of the application of the

1 establishment or the job otherwise qualifies as a new  
2 direct job following a change-in-control event. The  
3 leasing of employees by the establishment or employees  
4 provided under contract with an establishment shall  
5 constitute an employer-employee relationship between  
6 those employees and the establishment. A job shall be  
7 deemed to exist in this state prior to approval of an  
8 application if the activities and functions for which  
9 the particular job exists have been ongoing at any  
10 time within six (6) months prior to such approval.  
11 With respect to establishments defined in division  
12 (10) of subparagraph a of paragraph 1 of this  
13 subsection, new direct jobs shall be limited to those  
14 jobs directly comprising the corporate headquarters of  
15 or directly relating to manufacturing, maintenance,  
16 administrative, financial, engineering, surveying,  
17 geological or geophysical services performed by the  
18 establishment. Under no circumstances shall  
19 employment relating to field services be considered  
20 new direct jobs;

21 4. "Estimated direct state benefits" means the tax revenues  
22 projected by the Department to accrue to the state as a result of  
23 new direct jobs;



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

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

11        6. "Estimated net direct state benefits" means the estimated  
12 direct state benefits less the estimated direct state costs;

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

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

1 (2) the term is or is renewable for not less than  
2 twenty (20) years, and  
3 (3) the average annual salary, excluding benefits  
4 which are not subject to Oklahoma income taxes,  
5 for new direct jobs created as a direct result of  
6 the awarding of the contract is projected by the  
7 Oklahoma Department of Commerce to equal or  
8 exceed Forty Thousand Dollars (\$40,000.00) within  
9 three (3) years of the date of the first  
10 incentive payment,

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

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

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

20 (2) in a county in which:

21 (a) the per capita personal income, as  
22 determined by the Department, is eighty-five  
23 percent (85%) or less of the statewide  
24 average per capita personal income,

1 (b) the population has decreased over the  
2 previous ten (10) years, as determined by  
3 the Oklahoma Department of Commerce based on  
4 the most recent U.S. Department of Commerce  
5 data, or

6 (c) the unemployment rate exceeds the lesser of  
7 five percent (5%) or two percentage points  
8 above the state average unemployment rate as  
9 certified by the Oklahoma Employment  
10 Security Commission,

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

13 (1) is, as of the date of application, receiving  
14 incentive payments pursuant to the Oklahoma  
15 Quality Jobs Program Act and has been receiving  
16 such payments for at least one (1) year prior to  
17 the date of application, and

18 (2) expands its operations in this state by creating  
19 additional new direct jobs which pay average  
20 annualized wages which equal or exceed one  
21 hundred fifty percent (150%) of the average  
22 annualized wages of new direct jobs on which  
23 incentive payments were received during the  
24 preceding calendar year,

- 1 f. with respect to an establishment defined or classified  
2 in the NAICS Manual under U.S. Industry No. 711211  
3 (2007 version) or any establishment defined or  
4 classified in the NAICS Manual as a U.S. Industry  
5 Number which is not included within the definition of  
6 "basic industry" as such term is defined in this  
7 section on April 17, 2008, the net benefit rate shall  
8 not exceed the highest rate of income tax imposed upon  
9 the Oklahoma taxable income of individuals pursuant to  
10 subparagraph (g) or subparagraph (h), as applicable,  
11 of paragraph 1 and paragraph 2 of subsection B of  
12 Section 2355 of this title. Any change in such  
13 highest rate of individual income tax imposed pursuant  
14 to the provisions of Section 2355 of this title shall  
15 be applicable to the computation of incentive payments  
16 to an establishment as described by this subparagraph  
17 and shall be effective for purposes of incentive  
18 payments based on payroll paid by such establishment  
19 on or after January 1 of any applicable year for which  
20 the net benefit rate is modified as required by this  
21 subparagraph, and
- 22 g. the net benefit rate shall not exceed six percent (6%)  
23 in connection with an establishment which employs  
24 United States military veterans in at least ten

1           percent (10%) of its gross payroll. The net benefit  
2           rate for an establishment which employs United States  
3           military veterans in at least ten percent (10%) of its  
4           payroll shall not be lower than five percent (5%).

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

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

13          9.    a. "Establishment" means any business or governmental  
14                entity, no matter what legal form, including, but not  
15                limited to, a sole proprietorship; partnership;  
16                limited liability company; corporation or combination  
17                of corporations which have a central parent  
18                corporation which makes corporate management decisions  
19                such as those involving consolidation, acquisition,  
20                merger or expansion; federal agency; political  
21                subdivision of the State of Oklahoma; or trust  
22                authority; provided, distinct, identifiable subunits  
23                of such entities may be determined to be an  
24                establishment, for all purposes of the Oklahoma

1 Quality Jobs Program Act, by the Department subject to  
2 the following conditions:

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

10 (2) the subunit is engaged in an activity or service  
11 or produces a product which is demonstratively  
12 independent and separate from the entity's other  
13 activities, services or products and could be  
14 conducted or produced in the absence of any other  
15 activity, service or production of the entity,

16 (3) has an accounting system capable of tracking or  
17 facilitating an audit of the subunit's payroll,  
18 expenses, revenue and production. Limited  
19 interunit overlap of administrative and  
20 purchasing functions shall not disqualify a  
21 subunit from consideration as an establishment by  
22 the Department,

23 (4) the entity has not previously had a subunit  
24 determined to be an establishment pursuant to

1                   this section; provided, the restriction set forth  
2                   in this division shall not apply to subunits  
3                   which qualify pursuant to the provisions of  
4                   subparagraph b of paragraph 7 of this subsection,  
5                   and

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

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

18                  10. "NAICS Manual" means any manual, book or other publication  
19                  containing the North American Industry Classification System, United  
20                  States, 1997, promulgated by the Office of Management and Budget of  
21                  the United States of America, or the latest revised edition;

22                  11. "Qualified federal contract" means a contract between an  
23                  agency or instrumentality of the United States government, including  
24                  but not limited to the Department of Defense or any branch of the

1 United States Armed Forces, but exclusive of any contract performed  
2 for the Federal Emergency Management Agency as a direct result of a  
3 natural disaster declared by the Governor or the President of the  
4 United States with respect to damage to property located in Oklahoma  
5 or loss of life or personal injury to persons in Oklahoma, and a  
6 lawfully recognized business entity, whether or not the business  
7 entity is organized under the laws of the State of Oklahoma or  
8 whether or not the principal place of business of the business  
9 entity is located within the State of Oklahoma, for the performance  
10 of services, including but not limited to testing, research,  
11 development, consulting or other services in a basic industry, if  
12 the contract involves the performance of such services performed on  
13 or after July 1, 2009, by the employees of the business entity  
14 within the State of Oklahoma or if the contract involves the  
15 performance of such services performed on or after July 1, 2009, by  
16 employees of a lawfully recognized business entity that is a  
17 subcontractor of the business entity with which the prime contract  
18 has been formed. A qualified federal contract described in this  
19 paragraph shall not qualify unless both the qualified federal  
20 contractor and any subcontractors originally involved in the work or  
21 added subsequently during the period of performance verify to the  
22 qualified federal contractor verifier that it offers, or will offer  
23 within one hundred eighty (180) days of employment of its respective  
24 employees, a basic health benefits plan as described in subparagraph



1 b of paragraph 1 of this subsection to individuals who perform  
2 qualified labor hours in this state;

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

8 a. established multiyear classified and unclassified  
9 indefinite-delivery/indefinite-quantity federal  
10 contract vehicles in excess of Fifty Million Dollars  
11 (\$50,000,000.00),

12 b. current capability to sponsor and maintain personnel  
13 security clearances and authorized by the federal  
14 government to handle and perform classified work up to  
15 the Top Secret Sensitive Compartmented Information  
16 levels,

17 c. at least one on-site federally certified Sensitive  
18 Compartmented Information Facility,

19 d. on-site secure mass data storage complex with the  
20 capability of isolating, segregating and protecting  
21 corporate proprietary and classified information,

22 e. trusted agent status by maintaining no ownership of,  
23 vested interest in, nor royalty production from any  
24 intellectual property,

- 1 f. at least one hundred thousand (100,000) square feet of  
2 configurable laboratory and support space,  
3 g. the direct access to restricted air space through a  
4 formalized memorandum of agreement with the Department  
5 of Defense,  
6 h. at least five thousand (5,000) acres available for  
7 outdoor testing and training facilities, and  
8 i. the ability to house state-of-the-art surety  
9 facilities, including chemical, biological,  
10 radiological, explosives, electronics, and unmanned  
11 systems laboratories and ranges;

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

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

18 15. "Effective date" means the date of approval of a contract  
19 under which incentive payments will be made pursuant to the Oklahoma  
20 Quality Jobs Program Act, which shall be the date the signed and  
21 accepted incentive contract is received by the Department; provided,  
22 an approved project may have a start date which is different from  
23 the effective date;

1 16. "Total qualified labor hours" means the reimbursed payment  
2 amount for hours of work performed by the State of Oklahoma  
3 workforce of a qualified federal contractor or the State of Oklahoma  
4 workforce of a subcontractor of a qualified federal contractor and  
5 which are required for the full performance of a qualified federal  
6 contract;

7 17. "Qualified labor rate" means the fully reimbursed labor  
8 rate paid through a qualified federal contract for qualified labor  
9 hours to the qualified federal contractor or subcontractor;

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

- 11 a. maintaining a prime contract with the federal  
12 government as defined in paragraph 11 of this  
13 subsection,
- 14 b. providing notice of intent to apply to the Department  
15 within one hundred eighty (180) days of July 1, 2010,  
16 or one hundred eighty (180) days of the date of the  
17 award of a qualified federal contract or award of a  
18 new qualified subcontract under an existing qualified  
19 federal contract, and
- 20 c. adding substantively to the contract by performing at  
21 least eight percent (8%) of the total labor whether  
22 qualified and nonqualified labor as determined by the  
23 federal contractor verifier on a direct contract or  
24 individual task order or delivery order on an

1           indefinite-delivery/indefinite-quantity or other  
2           blanket contract vehicle.

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

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

- 14           a.    is organized and existing under Section 176 of Title  
15                 60 of the Oklahoma Statutes for the benefit of a  
16                 geographic area which includes a city or county or  
17                 some combination thereof, and
- 18           b.    benefits a geographic area where new direct jobs which  
19                 meet the requirements of the Oklahoma Quality Jobs  
20                 Program Act are created by an establishment, other  
21                 than the proxy establishment, which is a branch of the  
22                 Armed Forces of the United States.

23           A proxy establishment may be determined to be an establishment  
24 for all purposes of the Oklahoma Quality Jobs Program Act by the

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

13 B. The Incentive Approval Committee is hereby created and shall  
14 consist of the Director of the Office of Management and Enterprise  
15 Services, the Director of the Department and one member of the  
16 Oklahoma Tax Commission appointed by the Tax Commission, or a  
17 designee from each agency approved by such member. It shall be the  
18 duty of the Committee to determine the eligibility of all applicants  
19 for the Oklahoma Quality Jobs Program Act, subject to the applicable  
20 requirements.

21 C. For an establishment defined as a "basic industry" pursuant  
22 to division (4) of subparagraph a of paragraph 1 of subsection A of  
23 this section, the Incentive Approval Committee shall consist of the  
24 members provided by subsection B of this section and the Executive

1 Director of the Oklahoma Center for the Advancement of Science and  
2 Technology, or a designee from the Center appointed by the Executive  
3 Director.

4 SECTION 2. This act shall become effective November 1, 2025.

5 Passed the Senate the 11th day of March, 2025.

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\_\_\_\_\_  
Presiding Officer of the Senate

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9 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

10 2025.

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Presiding Officer of the House  
of Representatives

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