

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

2ND CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
HOUSE BILL NO. 2093

By: McCorkell, Mass, Bonny,
Kirby, Widener and
Williams of the House

and

Fisher and Shedrick of
the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to economic development; amending 62 O.S. 1991, Section 695.4, which relates to the Legislative Bond Oversight Commission; amending 62 O.S. 1991, Section 695.8a, which relates to the Bond Oversight Revolving Fund; amending 62 O.S. 1991, Section 695.9, which relates to the Bond Oversight Commission; amending Section 3, Chapter 275, O.S.L. 1993, as amended by Section 2 of Enrolled Senate Bill No. 846 of the 2nd Session of the 44th Oklahoma Legislature, which relates to the Oklahoma Quality Jobs Program Act; amending 74 O.S. 1991, Section 5002.3, which relates to the board of Oklahoma Futures; amending Section 1, Chapter 259, O.S.L. 1992 (74 O.S. Supp. 1993, Section 5003.10), which relates to the Oklahoma Department of Commerce; amending 74 O.S. 1991, Sections 5064.4, 5064.5, 5064.8 and 5064.9, which relate to the Inventors Assistance Act; enacting the Saving Quality Jobs Act; providing short title; stating legislative intent; defining terms; authorizing certain establishments to claim certain payments; providing criteria for establishments; specifying period for payments; providing for computation of benefit amount; providing for maximum payment; providing for apportionment procedure; imposing certain limitations for purposes of computations; requiring applications; prescribing conditions for receipt of benefits pursuant to Saving Quality Jobs Act; providing for actions by Oklahoma Tax Commission; creating Saving Quality Jobs Premium Payment Fund; providing for deposit of certain monies in fund; prescribing conditions related to fund; imposing limit on expenditures; providing claims procedure; providing for verification; providing for payments to establishments meeting certain criteria based on economic impact; prescribing procedures related to payment of benefits; providing computation of payments; prescribing procedures related to high impact projects; creating the High Impact Projects Payments Fund; providing for deposit of monies in fund; prescribing conditions related to fund; imposing limit on expenditures; requiring promulgation of rules; prescribing penalties for violations; providing for felony penalty; requiring reports by Oklahoma Department of Commerce; prescribing content of reports; imposing

deadlines for filing of reports; limiting availability of certain incentive payments after certain date; providing for continued payment of incentives based upon certain conditions; modifying term; providing for availability of benefits based upon location of establishment at certain facilities; imposing requirements; defining term; modifying references; providing short title; enacting the Former Military Facility Development Act; authorizing certain establishments to claim certain payments based upon criteria related to location at former military facilities; defining term; prescribing procedures related to payment of incentives; prohibiting incentive payments to certain establishments; creating Former Military Facility Projects Fund; providing for deposit of certain monies in fund; prescribing conditions related to Fund; imposing limit on expenditures; imposing limitation upon eligibility for certain credits and exemptions; requiring rules; prescribing penalties; modifying definition; modifying composition of Legislative Bond Oversight Commission; providing for appointments; providing for selection of alternates; prescribing procedures; re-creating the Bond Oversight Revolving Fund; modifying procedures with respect to filing of certain information; modifying filing date; prescribing procedures for purposes of determining quorum; modifying powers and duties of Oklahoma Department of Commerce; modifying provisions of the Inventors Assistance Act; modifying program requirements; modifying terms; authorizing fees; modifying references; modifying required content of certain report; requiring certain municipalities to conduct study; requiring determination of feasibility for certain preference; repealing 62 O.S. 1991, Sections 695.8b and 695.10, which relate to the Bond Oversight Revolving Fund and reporting under the Bond Oversight and Reform Act; providing certain provisions not to become effective as law based upon enactment of certain other provisions; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3701 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 1 through 12 of this act shall be known and may be cited as the "Saving Quality Jobs Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3702 of Title 68, unless there is created a duplication in numbering, reads as follows:

It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to support establishments:

- a. that hold promise of retaining and gaining jobs when the State of Oklahoma is in competitive situations with other states or nations,
- b. when there is a direct threat to the existing revenue base and wealth of the state because existing jobs are at risk, and
- c. provided, however, new jobs must be created in conjunction with provisions of incentives to retain at-risk jobs;

2. The State of Oklahoma provide appropriate incentives to support establishments that hold the promise of growth in strategic industries that yield higher long-term benefits for job retention and increasing the wealth of the state and which create competitive advantages for the State of Oklahoma in attracting and retaining industries and thus jobs;

3. The State of Oklahoma provide appropriate incentives to establishments that locate in areas of the state that would be highly impacted statistically in their labor forces when establishments locate in such an area;

4. The State of Oklahoma provide appropriate incentives to establishments that reduce continuing unemployment for citizens by employing the chronically unemployed;

5. The Oklahoma Department of Commerce and the Oklahoma Tax Commission implement the provisions of the Saving Quality Jobs Act and exercise all powers as authorized in this act. The exercise of powers conferred by the Saving Quality Jobs Act shall be deemed and held to be the performance of essential public purposes; and

6. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company, corporation or association nor to authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3703 of Title 68, unless there is created a duplication in numbering, reads as follows:

Unless otherwise indicated in the Saving Quality Jobs Act, the definitions contained in Section 3603 of Title 68 of the Oklahoma Statutes shall apply to the Saving Quality Jobs Act.

Other definitions of the Saving Quality Jobs Act are:

1. "At-risk jobs" are those jobs of a qualifying establishment, presently existing in Oklahoma which the Director of the Department of Commerce finds would be lost within the state based on changes in establishment structure; consolidation attempts of establishments; and other such factors as determined on a case-by-case basis, unless incentives are offered. Provided, that the Department shall limit the number of at-risk jobs for each establishment so that the number of at-risk jobs shall not exceed the number of new direct jobs anticipated to be created. However, under no circumstances shall the number of at-risk jobs exceed two hundred (200) jobs for any single establishment;

2. "Fiscal year" means July 1 through June 30;

3. "High impact projects" means those projects described in Section 8 of this act;

4. "Premium net benefit rate" means the percentage rate determined by the Oklahoma Department of Commerce and utilized by the Oklahoma Tax Commission to calculate quarterly premium payments which are further described in Section 5 of this act; and

5. "Premium payments" means those payments made in addition to incentive payments to approved establishments under the terms of the Saving Quality Jobs Act which are calculated in accordance with the provisions of Section 5 of this act.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3704 of Title 68, unless there is created a duplication in numbering, reads as follows:

An establishment which is qualified for incentive payments pursuant to the Oklahoma Quality Jobs Program Act shall be entitled to claim quarterly premium payments for a period of three (3) years, to be calculated as provided by Section 5 of this act, if such establishment meets either of the following qualifications:

1. It is certified by the Oklahoma Department of Commerce and confirmed by the Governor that the establishment has demonstrated that its existing jobs are at risk. In order to qualify for the premium, the establishment must create one new job for each at-risk job saved. In such cases, the premium payment shall be calculated as provided in Section 5 of this act.

The Department shall specify the type of application, information or documentation necessary to satisfy the requirement of this paragraph; or

2. An establishment is engaged in an industry which is strategically important to the general economic development of this state due to its impact upon factors such as labor, other establishments in the same or related industries, demand for component or material supplies and other factors which may be determined by rule of the Department of Commerce. Provided, that those industries classified and defined in the Standard Industrial Classification (SIC) Manual, latest version, as follows shall be considered strategic for purposes of this section:

- a. Electronic components, n.e.c., SIC 3675,
- b. Miscellaneous plastics products, SIC 3070,
- c. Central administrative offices, (no SIC Code),
- d. Instruments and related products, SIC 38,
- e. Chemicals including pharmaceuticals, SIC 28,
- f. Engineering and architectural services, SIC 871,
- g. Aircraft and parts manufacturing, SIC 372, and
- h. Research and testing services, SIC 873.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3705 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. An establishment which meets the qualifications specified in the Saving Quality Jobs Act may claim premium payments for a three-year period from the Oklahoma Tax Commission pursuant to the provisions of the Saving Quality Jobs Act in an amount equal to the premium net benefit rate multiplied by the actual gross payroll of the establishment's new direct jobs for a calendar quarter as verified by the Oklahoma Employment Security

Commission. The premium net benefit rate of the establishment shall be calculated by the Department of Commerce by dividing the maximum allowable premium payment for the establishment, which shall be calculated as follows, by the anticipated quarterly gross payroll of the establishment:

1. The maximum allowable premium payment to an establishment which qualifies for premium payments pursuant to the provisions of paragraph 1 of Section 4 of this act shall be calculated to be equal to one-tenth of one percent (1/10 of 1%) of the estimated net direct state benefits, apportioned over the three-year payment period as provided by subsection B of this section, for each qualifying at-risk job which is retained by an establishment. Provided, that the number of retained at-risk jobs utilized for said calculation shall not exceed the number of new direct jobs added by the establishment pursuant to the Quality Jobs Program Act, or two hundred (200) jobs whichever is less. Additionally, the maximum allowable premium payment shall be reduced as set out in paragraphs 3 and 4 of this subsection.

2. The maximum allowable premium payment of an establishment which qualifies for premium payments pursuant to the provisions of paragraph 2 of Section 4 of this act shall be calculated to be equal to twenty percent (20%) of the estimated net direct state benefits, apportioned over the three-year payment period as provided by subsection B of this section. Provided, the maximum allowable premium payment shall be reduced as set out in paragraphs 3 and 4 of this subsection.

3. Under no circumstances may the combined premium payment and quality job incentive payment made to an establishment exceed five percent (5%) of the gross payroll of the establishment. If the sum of the establishment's maximum premium payment as a percent of anticipated gross payroll and the establishment's net benefit rate exceed five percent (5%) of gross payroll, then the Department of Commerce shall reduce the establishment's allowable premium payment such that the combined premium payment and quality job incentive payment shall equal five percent (5%) of gross payroll.

4. The maximum aggregate amount of payments, to all qualified establishments in any fiscal year of the State of Oklahoma, which are authorized pursuant to this section and Section 8 of this act is Two Million Five Hundred Thousand Dollars (\$2,500,000.00). For the purposes of this paragraph, projected premium and incentive payments of each qualified establishment pursuant to this section and Section 8 of this act shall be aggregated by the Department of Commerce to determine if said limit has been reached.

Notwithstanding any other provision of law, when the maximum Two Million Five Hundred Thousand Dollars (\$2,500,000.00) of projected premium and incentive payments provided by this section and Section 8 of this act have been obligated to specific establishments for a given fiscal year, then no additional application for payments may be considered by the Department of Commerce for that fiscal year and in any event no payments in excess of said Two Million Five Hundred Thousand Dollars (\$2,500,000.00) shall be paid by the Tax Commission within any fiscal year pursuant to this section and Section 8 of this act.

B. Upon calculating an establishment's allowable possible premium payment as provided by subsection A of this section, the Department of Commerce shall apportion said total amount among each of the three (3) years of the payment period as provided by subsection B of this section. Said apportionment shall be made in the same proportions as the first three (3) years of an establishment's annual estimated net direct state benefits pursuant to the Oklahoma Quality Jobs Program Act.

C. In order to receive premium payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified.

D. In order to qualify for and remain qualified to receive premium payments, the establishment applying must have applied for, be qualified for and remain qualified for incentive payments pursuant to the Oklahoma Quality Jobs Program Act and meet all qualifications and requirements of the Saving Quality Jobs Act.

E. The Department shall determine if the applicant is qualified to receive premium payments.

F. If the applicant is determined to be qualified by the Department of Commerce, the Department shall communicate such information to the Tax Commission, including the establishment's premium net benefit rate and the maximum allowable premium payment amount during the three-year payment period, when supplying information required by the Oklahoma Quality Jobs Program Act. The Tax Commission may require the establishment to submit such additional information as may be necessary to administer the provisions of the Saving Quality Jobs Act. The approved establishment shall report to the Tax Commission periodically to show its continued eligibility for premium payments. The establishment may be audited by the Tax Commission to verify such eligibility.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3706 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Saving Quality Jobs Premium Payment Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited shall equal the sum of an amount determined by multiplying the premium net benefit rate provided by the Department of Commerce by the gross payroll of each establishment approved pursuant to Section 5 of this act. All of the amounts deposited in such fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the Saving Quality Jobs Act. Liability of the State of Oklahoma for payments made pursuant to the Saving Quality Jobs Act shall be limited to the balance contained in the fund created by this section and Section 9 of this act. The total payments from the fund created by this section together with all payments from the High Impact Project Payment Fund created pursuant to Section 9

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of this act shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) for any one fiscal year.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3707 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As soon as practicable after the end of a calendar quarter for which an establishment has qualified to receive a premium payment, the establishment shall file a claim for the payment with the Oklahoma Tax Commission and shall specify the actual number and gross payroll of new direct jobs or at risk jobs for the establishment for the calendar quarter. The Tax Commission shall verify the actual gross payroll for new direct jobs for the establishment for such calendar quarter. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request such additional information from the establishment as may be necessary or may request the establishment to revise its claim.

B. As soon as practicable after such verification, the Tax Commission shall issue a warrant to the establishment in the amount of the premium net benefit rate multiplied by the actual gross payroll for the calendar quarter in accordance with Section 5 of this act. Provided, that the premium payments received by an establishment shall not exceed the total maximum allowable premium payment over the entire three-year period as communicated to the Tax Commission by the Department of Commerce. If an establishment is entitled to a quarterly payment pursuant to both the Oklahoma Quality Jobs Program Act and the Saving Quality Jobs Act, the Tax Commission may issue one warrant for both.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3708 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. An establishment which meets the qualifications specified in the Oklahoma Quality Jobs Program Act, Sections 3602 through 3609 of Title 68 of the Oklahoma Statutes, except that the establishment has an annual gross payroll for new direct jobs, as defined in the Oklahoma Quality Jobs Program Act, projected by the

Department of Commerce to equal at least One Million Dollars (\$1,000,000.00) but less than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the anticipated date of receipt of first incentive payment may qualify for payments for the High Impact Projects Payments Fund created in Section 9 of this act pursuant to approval by the Oklahoma Department of Commerce if the establishment provides a number of new direct jobs that is equal to or greater than one percent (1%) of the total labor force of the county in which the establishment locates. Such establishments shall be deemed "high impact projects".

B. 1. High impact projects, upon approval of the Oklahoma Department of Commerce, may receive quarterly incentive payments for a six-year period from the Oklahoma Tax Commission in an amount which shall be equal to two and one-half percent (2.5%) of gross payroll for new direct jobs.

2. During the first three (3) years of the six-year period, an approved project may receive quarterly incentive payments irrespective of whether a minimum annual payroll of One Million Dollars (\$1,000,000.00) for new direct jobs is achieved. In the event a minimum annual payroll of One Million Dollars (\$1,000,000.00) for new direct jobs is not achieved by an approved project within three (3) years, payments will cease and will not be resumed.

3. An approved project which achieves the minimum required payroll during the first three (3) years is eligible to receive incentive payments during the remaining three (3) years of the six-year period. Provided, in order to receive an incentive payment for any quarter during the remaining three (3) years of eligibility, the approved project must have an actual verified gross payroll which equal or exceeds One Million Dollars (\$1,000,000.00) for new direct jobs for the four (4) consecutive calendar quarters immediately preceding the quarter for which application for payment is made.

C. Upon approval of such high impact project to receive payments, the Department of Commerce shall notify the Oklahoma Tax

Commission in writing and shall provide it with a copy of the application and the approval. The Tax Commission may require the establishment implementing the high impact project to submit additional information as is necessary for the Tax Commission to verify continuing eligibility for receipt of incentive payments. Any information submitted in response to such inquiries shall be considered a part of the documentation for qualification and shall be subject to audit by the Tax Commission.

D. As soon as practicable after receipt of departmental approval of a high impact project, the Tax Commission shall notify the establishment performing the high impact project of procedures and requirements to receive warrants. Once the establishment has complied, the Tax Commission shall issue quarterly warrants as long as eligibility continues.

E. The prohibition set forth in Section 3607 of Title 68 of the Oklahoma Statutes shall apply to an establishment which receives incentive payments pursuant to the provisions of this section.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3709 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "High Impact Projects Payments Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited shall equal the sum of an amount determined by multiplying two and one-half percent (2.5%) by the gross payroll for new direct jobs for each establishment approved pursuant to Section 8 of this act. All of the amounts deposited in such fund may be used and expended by the Tax Commission for the purposes and in the amounts authorized by the Saving Quality Jobs Act. Liability of the State of Oklahoma for payments made pursuant to the Saving Quality Jobs Act is limited to the balance contained in the fund created by this section and Section 6 of this act. The total payments from

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the fund created by this section together with all payments from the Saving Quality Jobs Premium Payment Fund created pursuant to Section 6 of this act shall not exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) for any one fiscal year.

SECTION 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3710 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Department of Commerce and the Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of the Saving Quality Jobs Act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3711 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Once a project is approved pursuant to the Saving Quality Jobs Act, an agreement shall be deemed to exist between the establishment implementing the project and the State of Oklahoma requiring continuing payments to be made as established pursuant to this section and within the limitations herein.

B. Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of the Saving Quality Jobs Act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any

person convicted of a violation of this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3712 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall prepare a report which shall include, but not be limited to, documentation of the new direct jobs created or saved under the Saving Quality Jobs Act and a fiscal analysis of the costs and benefits of the act to the state. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state no later than March 1, 1996.

B. On and after January 1, 1997, no new or renewal applications to receive premium or incentive payments under the Saving Quality Jobs Act shall be approved by the Oklahoma Department of Commerce. Provided, an establishment which, prior to January 1, 1997, has been approved by the Department to receive premium or incentive payments under the act shall continue to receive payments pursuant to the terms of its agreement with the State of Oklahoma as long as the establishment retains its eligibility.

SECTION 13. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3610 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall prepare a report which shall include, but not be limited to, documentation of the new direct jobs created under the Oklahoma Quality Jobs Program Act and a fiscal analysis of the costs and benefits of the Program to the state. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state no later than March 1, 1996.

B. On and after January 1, 1997, no new or renewal applications to receive incentive payments under the Oklahoma Quality Jobs Program Act shall be approved by the Oklahoma Department of Commerce. Provided, an establishment which, prior to January 1, 1997, has been approved by the Department to receive incentive payments under the Program shall continue to receive payments pursuant to the terms of its agreement with the State of Oklahoma as long as the establishment retains its eligibility.

SECTION 14. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3801 of Title 68, unless there is created a duplication in numbering, reads as follows:

Sections 14 through 21 of this act shall be known and may be cited as the "Former Military Facility Development Act".

SECTION 15. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3802 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Except as otherwise provided by this section, an establishment which meets the qualifications specified in the Oklahoma Quality Jobs Program Act, Sections 3601 through 3609 of Title 68 of the Oklahoma Statutes, except that the establishment:

1. Has an annual gross payroll for new direct jobs, as defined in the Oklahoma Quality Jobs Program Act, projected by the Department of Commerce to equal at least One Million Five Hundred Thousand Dollars (\$1,500,000.00) but less than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the anticipated date of receipt of first incentive payment; and

2. Locates its principal business activity at a former military facility,

may qualify for payments from the Former Military Facility Projects Fund created in Section 16 of this act pursuant to approval by the Oklahoma Department of Commerce. Such establishments shall be deemed "former military facility projects".

B. Unless otherwise indicated in the Former Military Facility Development Act, the definitions contained in Section 3603 of Title 68 of the Oklahoma Statutes shall apply to the Former Military Facility Development Act.

C. As used in this section, "former military facility" shall mean any tract or parcel of real property used primarily for a military purpose during a state of war, armed conflict or during peace time, title to which was vested in the United States Government, any branch of the Armed Forces of the United States of America or was subsequently conveyed by such entities to the State of Oklahoma, any political subdivision of the State of Oklahoma, or any public trust having the State of Oklahoma or any political subdivision of the State of Oklahoma as its beneficiary, whether singly or in combination with other government entities prior to the date on which the establishment acquired its interest.

D. The Department shall determine if the applicant is qualified to receive incentive payments.

E. If the applicant is determined to be qualified by the Department of Commerce, the Department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a ten-year period and to estimate the amount of gross payroll for a ten-year period. In conducting such cost/benefit analysis, the Department shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the added cost to the state of providing services, and such other criteria as deemed appropriate by the Department. In no event shall former military facility project payments, cumulatively, exceed the estimated net direct state benefits. Notwithstanding any other provision of law, when the maximum of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) of projected former military facility projects payments provided by Sections 14 through 21 of this act have been obligated to specific establishments for a given fiscal year, then no additional application for such payments may be considered by the Department of Commerce for that fiscal year and in any event no payments in excess of said Two Million Five Hundred Thousand

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Dollars (\$2,500,000.00) shall be paid by the Tax Commission within any fiscal year.

F. An establishment which meets the qualifications specified in Sections 14 through 21 of this act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of the Former Military Facility Development Act in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Oklahoma Employment Security Commission except as provided and limited by this section and in Sections 16 and 17 of this act.

G. Upon approval of such an application, the Department shall notify the Oklahoma Tax Commission and shall provide it with a copy of the application and the results of the cost/benefit analysis. The Tax Commission may require the qualified establishment to submit such additional information as may be necessary to administer the provisions of the Former Military Facility Development Act. The approved establishment shall report to the Tax Commission periodically to show its continued eligibility for incentive payments, as provided in Section 17 of this act. The establishment may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring the continued payment to be made as long as the establishment retains its eligibility as defined in and established pursuant to this section and Sections 16 and 17 of this act and within the applicable limitations contained in the Oklahoma Quality Jobs Program Act, which existed at the time of such approval.

H. No incentive payments which would otherwise be authorized by this section shall be made to an establishment occupying any lands title to which has been held or title to which is held, at the time of application for such payments, by any public trust created pursuant to the provisions of Section 176 et seq. of Title 60 of the Oklahoma Statutes if such trust is specifically excluded from the definition of "state agency" or "agency of the state" by Req. No. L9964Page 16

the provisions of Section 33 of Title 25 of the Oklahoma Statutes or any other provision of law.

SECTION 16. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3803 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Former Military Facility Projects Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the Fund. The amount deposited shall equal the sum of an amount determined by multiplying the net benefit rate provided by the Department of Commerce by the gross payroll of each qualified military facility project establishment. All of the amounts deposited in such Fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the Former Military Facility Development Act. Liability of the State of Oklahoma to make the payments under the Former Military Facility Development Act shall be limited to the balance contained in the Fund created by this section. Provided, the Tax Commission may never pay more than Two Million Five Hundred Thousand Dollars (\$2,500,000.00) from the Fund in any one fiscal year.

SECTION 17. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3804 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As soon as practicable after the end of a calendar quarter for which an establishment has qualified to receive a payment from the Former Military Facility Project Fund, the establishment shall file a claim for the payment with the Oklahoma Tax Commission and shall specify the actual number and gross payroll of new direct jobs for the establishment for the calendar quarter. The Tax Commission shall verify the actual gross payroll for new direct jobs for the establishment for such calendar quarter. If the Tax

Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request such additional information from the establishment as may be necessary or may request the establishment to revise its claim.

B. If the actual verified gross payroll for four (4) consecutive calendar quarters does not equal or exceed a total of One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the date of the first incentive payment, or does not equal or exceed a total of One Million Five Hundred Thousand Dollars (\$1,500,000.00) at any other time during the ten-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified gross payroll equals or exceeds the amounts specified in this subsection. Provided, in no event shall former military facility projects payments, cumulatively for any individual establishment, exceed the estimated net direct state benefits determined by the Department to apply to the military facility project establishment. Provided further, in no event shall the former military projects facility payments exceed, cumulatively for all qualifying establishments, payments in excess of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in any single fiscal year.

C. An establishment that has qualified pursuant to Section 15 of this act may receive payments only in accordance with the provisions under which it initially applied and was approved. If an establishment that is receiving former military facility projects payments expands, it may apply for additional incentive payments based on the gross payroll anticipated from the expansion only, pursuant to Section 3604 of Title 68 of the Oklahoma Statutes.

D. As soon as practicable after such verification, the Tax Commission shall issue a warrant to the former military facility project establishment in the amount of the net benefit rate multiplied by the actual gross payroll as determined pursuant to subsection A of this section for the calendar quarter.

SECTION 18. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3805 of Title 68, unless there is created a duplication in numbering, reads as follows:

The prohibition set forth in Section 3607 of Title 68 of the Oklahoma Statutes shall apply to an establishment which receives incentive payments pursuant to the Former Military Facility Development Act.

SECTION 19. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3806 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Department of Commerce and the Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of the Former Military Facility Development Act.

SECTION 20. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3807 of Title 68, unless there is created a duplication in numbering, reads as follows:

Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of the Former Military Facility Development Act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or imprisonment in the

State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

SECTION 21. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3808 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall prepare a report which shall include, but not be limited to, documentation of the new direct jobs created under the Former Military Facility Development Act and a fiscal analysis of the costs and benefits of the act to the state. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state no later than March 1, 1996.

B. On and after January 1, 1997, no new or renewal applications to receive payments under the Former Military Facility Development Act shall be approved by the Oklahoma Department of Commerce. Provided, an establishment which, prior to January 1, 1997, has been approved by the Department to receive payments under the act shall continue to receive payments pursuant to the terms of its agreement with the State of Oklahoma as long as the establishment retains its eligibility.

SECTION 22. AMENDATORY Section 3, Chapter 275, O.S.L. 1993, as amended by Section 2 of Enrolled Senate Bill No. 846 of the 2nd Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 3603. A. As used in this act:

1. a. "Basic industry" means manufacturing, as defined or classified under Division D of the Standard Industrial Classification (SIC) Manual, latest version; administrative and auxiliary services that are assigned a one-digit auxiliary code in the SIC

Manual, and are described therein as Central Administrative Offices, which means central centers that influence the environment in which data processing, customer service, credit accounting, telemarketing, claims processing and other administrative functions are accomplished; Research, Development and Testing Laboratories; warehouses which serve as distribution centers for retail or wholesale businesses, if seventy-five percent (75%) of the inventory processed through such warehouse is shipped out-of-state; or the following, if an establishment classified therein has or will have within one (1) year sales of at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of this section, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government:

- (1) motor freight transportation and warehousing, as defined or classified under Major Group 42 of the SIC Manual, latest version,
- (2) transportation by air, as defined or classified under Major Group 45 of the SIC Manual, latest version,
- (3) arrangement of passenger transportation, as defined or classified under Industry Group 472 of the SIC Manual, latest version,
- (4) arrangement of transportation of freight or cargo, as defined or classified under Industry Group 473 of the SIC Manual, latest version,
- (5) insurance carriers, as defined or classified under Major Group 63 of the SIC Manual, latest version,

- (6) mailing, reproduction, commercial art and photography and stenographic services, as defined or classified under Industry Group 733 of the SIC Manual, latest version,
 - (7) services to dwellings and other buildings, as defined or classified under Industry Group 734 of the SIC Manual, latest version,
 - (8) miscellaneous equipment rental and leasing, as defined or classified under Industry Group 735 of the SIC Manual, latest version,
 - (9) personnel supply services, as defined or classified under Industry Group 736 of the SIC Manual, latest version,
 - (10) computer programming, data processing and other computer-related services, as defined or classified under Industry Group 737 of the SIC Manual, latest version,
 - (11) miscellaneous business services, as defined or classified under Industry Group 738 of the SIC Manual, latest version,
 - (12) medical and dental laboratories, as defined or classified under Industry Group 807 of the SIC Manual, latest version, and
 - (13) engineering and management services, as defined or classified under Major Group 87 of the SIC Manual, latest version.
- b. An establishment described in subparagraph a of this paragraph shall not be considered to be engaged in a basic industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this act, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is determined by the Oklahoma Department of Commerce to consist of the following

elements or elements substantially equivalent thereto:

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

2. "New direct job" means full-time-equivalent employment in this state in an establishment which has qualified to receive an incentive payment pursuant to the provisions of this act which did not exist in this state prior to the date of approval by the Department of Commerce of the application of the establishment pursuant to the provisions of Section 3604 of this title;

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

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

- a. the costs of education of new state resident children,
- b. the costs of public health, public safety and transportation services to be provided to new state residents,
- c. the costs of other state services to be provided to new state residents, and
- d. the costs of other state services;

5. "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

6. "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll; provided, the

net benefit rate may be variable and shall not exceed five percent (5%);

7. "Gross payroll" means wages ~~for new direct jobs,~~ as defined in Section ~~1-218~~ 2385.1 of Title ~~40~~ 68 of the Oklahoma Statutes, for new direct jobs; and

8. a. "Establishment" means any business or governmental entity, no matter what legal form, including, but not limited to, a sole proprietorship~~;~~; partnership~~;~~; corporation~~;~~ or combination of corporations which have a central parent corporation which makes corporate management decisions such as those involving consolidation, acquisition, merger or expansion; federal agency~~;~~; political subdivision of the State of Oklahoma~~;~~; or trust authority; provided, distinct, identifiable subunits of such entities may be determined to be an establishment, for all purposes of this act, by the Oklahoma Department of Commerce subject to the following conditions:

- (1) the entity must have a minimum payroll of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) and the subunit must also have or will have a minimum payroll of Two Million Five Hundred Thousand Dollars (\$2,500,000.00),
- (2) the subunit is engaged in an activity or service or produces a product which is demonstratively independent and separate from the entity's other activities, services or products and could be conducted or produced in the absence of any other activity, service or production of the entity,
- (3) has an accounting system capable of tracking or facilitating an audit of the subunit's payroll, expenses, revenue and production. Limited interunit overlap of administrative and purchasing functions shall not disqualify a

subunit from consideration as an establishment by the Oklahoma Department of Commerce,

(4) the entity has not previously had a subunit determined to be an establishment pursuant to this section, and

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

b. The Oklahoma Department of Commerce may promulgate rules to further limit the circumstances under which a subunit may be considered an establishment. The Department of Commerce shall promulgate rules to determine whether a subunit of an entity achieves a net gain in total employment. The Department shall establish criteria for determining the period of time within which such gain must be demonstrated and a method for determining net gain in total employment.

B. The Incentive Approval Committee is hereby created and shall consist of the Director of State Finance, the Director of the Department of Commerce and one member of the Oklahoma Tax Commission appointed by the Tax Commission. It shall be the duty of the Committee to determine, upon initial application on a form approved by the Committee, if an establishment is engaged in a basic industry as defined in divisions (1) through (13) of subparagraph a of paragraph 1 of subsection A of this section.

SECTION 23. AMENDATORY 62 O.S. 1991, Section 695.4, is amended to read as follows:

Section 695.4 A. There is hereby created the Legislative Bond Oversight Commission. The Commission shall consist of six (6) members, as follows:

1. The ~~chairman~~ Speaker of the Oklahoma House of Representatives ~~Appropriations and Budget Committee~~ shall appoint three (3) members; and

2. The ~~chairman~~ President Pro Tempore of the Oklahoma State Senate ~~Appropriations Committee;~~ shall appoint three (3) members.

~~3. the chairman of the Oklahoma House of Representatives Economic Development Committee;~~

~~4. the chairman of the Oklahoma State Senate Economic Development Committee;~~

~~5. the chairman of the Oklahoma House of Representatives Judiciary Committee; and~~

~~6. the chairman of the Oklahoma State Senate Judiciary Committee.~~

B. The Speaker of the House of Representatives and the President Pro Tempore of the Senate shall each appoint one permanent alternate member to serve upon the Commission. The alternate appointed by the Speaker of the House of Representatives shall be a member of the House of Representatives. The alternate appointed by the President Pro Tempore of the Senate shall be a member of the State Senate. The alternate member appointed from each of the respective chambers of the Legislature shall serve in place of a regularly appointed Commission member who is unable to serve, who will be absent from a meeting of the Commission or who cannot participate in a meeting. The alternate appointed by the Speaker of the House of Representatives may only serve in place of a Commission member of the House of Representatives. The alternate appointed by the President Pro Tempore of the Senate may only serve in place of a Commission member of the State Senate.

~~B.~~ C. The Legislative Commission, annually, shall elect a chairman from its membership. Four members of the Legislative Commission shall constitute a quorum. Except for actions involving the Credit Enhancement Reserve Fund, all official actions of the Legislative Commission shall be approved by an affirmative vote of at least a majority of the members comprising the quorum. All official actions of the Legislative Commission involving the Credit Enhancement Reserve Fund must be approved by an affirmative vote of at least four members. No vacancy in the membership of the Legislative Commission shall impair the rights of a quorum to exercise and perform all of the rights and duties of the Commission.

SECTION 24. AMENDATORY 62 O.S. 1991, Section 695.8a, is amended to read as follows:

Section 695.8a There is hereby ~~created~~ re-created in the State Treasury a revolving fund for the ~~Office of Public Affairs Department of Central Services~~, to be designated the "Bond Oversight Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of fees collected by the Executive Bond Oversight Commission and the Legislative Bond Oversight Commission as authorized by Section 695.8 of Title 62 of the Oklahoma Statutes and any other monies provided for by law. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the ~~Office of Public Affairs~~ Department of Central Services for expenses related to the Oklahoma Bond Oversight and Reform Act. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 25. AMENDATORY 62 O.S. 1991, Section 695.9, is amended to read as follows:

Section 695.9 A. No State Governmental Entity shall issue any obligations unless such obligations have been approved by the Executive Bond Oversight Commission and the Legislative Bond Oversight Commission as provided for in Section 695.8 of this title; provided, however, that in no event shall the Commissions' approval be required for the issuance of any obligations pursuant to a remarketing or a change in interest rate or maturity under the terms of indentures or agreements securing obligations heretofore issued prior to July 1, 1987, or pursuant to the provisions of Section 695.1 et seq. of this title.

B. 1. ~~Within ten (10) days following any formal preliminary action with~~ With respect to any financing proposed to be obtained through the issuance of its obligations, any State Governmental Entity shall file with the Executive Commission and the Legislative Commission ~~on the same day~~ a written description of the nature, need and purpose of such proposed financing. The Commissions shall review the description of the proposed financing

in order to either approve or disapprove the purpose to be served by the issuance of said State Governmental Entity obligations and for compliance with any applicable provisions of federal, state or other laws. The review as to purpose shall be strictly limited to the determination provided for in Section 695.8 of this title.

2. With respect to bonds or indebtedness proposed to be issued by the Oklahoma Development Finance Authority which will be enhanced or supported pursuant to the Credit Enhancement Reserve Fund Act, the Commissions shall review the description of such proposed financing in accordance with paragraph 1 of this subsection and additionally shall approve or disapprove the proposed financing on a determination of sufficient compliance with the Rules Regarding the Administration of the Credit Enhancement Reserve Fund as implemented by the Oklahoma Development Finance Authority. Such determinations by the Commissions shall be based on a written report prepared for and provided to the Commissions by the Program Development and Credit Review Committee as provided in Section 5062.6a of Title 74 of the Oklahoma Statutes, provided the Commissions shall not be bound to follow the conclusions reached by the committee in such reports. Provided, the provisions of this paragraph shall not apply to Credit Enhancement Reserve Fund applications approved by the Bond Oversight Commissions prior to June 9, 1990.

All orders issued by the Commissions approving or disapproving bonds or indebtedness enhanced or supported pursuant to the Credit Enhancement Reserve Fund Act shall be final and shall not be subject to any type of appeal.

3. The approval provided for in paragraph 1 of this subsection shall expire one hundred eighty (180) days after such approval. Provided, if such approval expires, nothing shall prevent the State Governmental Entity from refiling with the Commissions for approval of such financing and, if granted, any one subsequent approval of such financing shall be valid for a period, not to exceed one hundred eighty (180) days, as determined by the Commissions.

4. In the event there is a substantial change in the nature or purpose of a proposed financing after approval by the Commissions, the prior approval shall be void and the State Governmental Entity shall be required to seek approval from the Commissions in the manner provided in paragraph 1 of this subsection.

C. Local Governmental Entities that propose to issue obligations to fund capital additions or expenditures which obligations are to be retired by rental payments from the state, user fees from the state or any other such payment made by any officer, department, board, commission, institution or agency of the state when such payment is a direct and expressed pledge made by the state for the retirement of debt by a Local Governmental Entity shall be governed by the provisions of subsections A and B of this section. Provided, funds which are collected by the state for distribution to a Local Governmental Entity or are appropriated or dedicated by the state to a Local Governmental Entity without the expressed purpose of retiring debt of said Local Governmental Entity shall not constitute a pledge as provided in this subsection.

D. Except for the entities specified in subsection C of this section, Local Governmental Entities, within ten (10) days following ~~any formal preliminary action with respect to any financing proposed to be obtained through the issuance of its obligations,~~ the date funds become available to the issuer from the sale of any obligation, shall file with the Executive Commission and the Legislative Commission a ~~written description of the nature, need and purpose of the proposed financing~~ copy of the official statement or notice of sale and any other information concerning the proposed financing required by either of the Commissions.

E. Upon the request of a Local Governmental Entity, the State Bond Advisor may provide advice and assistance to the Local Governmental Entity with respect to the issuance of obligations. The State Bond Advisor may assess reasonable fees for such services.

SECTION 26. AMENDATORY 74 O.S. 1991, Section 5002.3,
is amended to read as follows:

Section 5002.3 A. In order to fulfill its mission as the originator, proponent, coordinator and overseer of economic analyses and plans, Oklahoma Futures shall be the central economic development policy planning and oversight board for all economic development activities in Oklahoma. Oklahoma Futures shall serve as an expert economic development advisory board to the Governor of Oklahoma, all other executive departments, the state legislature and the judiciary.

1. Oklahoma Futures shall be the economic development advisory board for the Oklahoma Department of Commerce.

2. Oklahoma Futures and the Oklahoma Department of Commerce shall act as policy developer and overseer to the Oklahoma Center for the Advancement of Science and Technology, the Oklahoma Development Finance Authority, and the Oklahoma Capital Investment Board.

3. Oklahoma Futures shall act as the central policy development board to any newly created Oklahoma agencies, authorities, departments and other entities of state government whose fundamental mission is the economic development of Oklahoma.

4. In its capacity as Oklahoma's central economic development policy planning and oversight board, Oklahoma Futures shall institutionalize ongoing means of collaboration between the executive and legislative branches, the business, agricultural and financial sectors, labor and management, educational institutions and local communities to create within a developing Oklahoma economy increased innovation, creativity, diversity and productivity which is greater than any one sector can achieve acting alone.

B. Oklahoma Futures shall be a board consisting of the following members:

1. The Governor;
2. The Lieutenant Governor;
3. The Speaker of the House of Representatives;
4. The President Pro Tempore of the Senate;

5. The President of the University of Oklahoma;
6. The President of Oklahoma State University;
7. The Director of the Oklahoma Department of Commerce;
8. The Chairman of the Economic Development Committee of the House of Representatives;
9. The Chairman of the Economic Development Committee of the Senate;
10. The President of the Oklahoma AFL-CIO;
11. The Chairman of the Oklahoma State Chamber of Commerce and Associated Industries;
12. A representative of the Oklahoma Wheat Growers' Association, appointed by the Governor from a list of three nominees submitted by the Association for a three-year term. Said representative shall be appointed within thirty (30) days of receipt of said list;
13. A representative of the Oklahoma Cattlemen's Association, appointed by the Governor from a list of three nominees submitted by the Association for a three-year term. Said representative shall be appointed within thirty (30) days of receipt of said list;
14. Six persons from the private sector appointed by the Governor, subject to confirmation by the Senate;
15. Two persons from the private sector appointed by the Speaker of the House of Representatives; and
16. Two persons from the private sector appointed by the President Pro Tempore of the Senate.

C. Persons initially appointed to Oklahoma Futures by the Governor shall serve for a term of office as follows:

1. Two members shall serve for a term of office of one (1) year;
2. One member shall serve for a term of office of two (2) years;
3. One member shall serve for a term of office of three (3) years; and
4. Two members shall serve for a term of office of four (4) years.

D. Persons initially appointed by the Speaker of the House of Representatives shall serve for a term of office of one (1) year and four (4) years respectively.

E. Persons initially appointed by the President Pro Tempore of the Senate shall serve for a term of office of two (2) years and three (3) years respectively.

F. All appointees to the board shall be selected for outstanding knowledge and leadership in their fields.

Except as otherwise provided, appointed members shall serve for a term of four (4) years.

No appointed member may serve more than two consecutive full terms of office on Oklahoma Futures.

G. Any vacancy in the appointive membership of Oklahoma Futures shall be filled for the unexpired term in the same manner as the original appointment. For gubernatorial appointments, if a vacancy occurs when the Senate is not in session, the Governor may appoint a member who shall exercise full powers until confirmation or rejection of the appointment by the Senate.

H. The Governor shall serve as co-chairman of Oklahoma Futures. The other co-chairman shall be elected annually from among the private sector members. A vice-chairman shall be elected annually from among all the members.

I. Oklahoma Futures shall meet at least once each calendar quarter and at such other times upon the call of the Governor. No person who serves on the board because of his or her status as an elected official shall be counted for purposes of determining the existence of a quorum for the transaction of business by Oklahoma Futures.

J. The Director of the Oklahoma Department of Commerce shall be the chief executive officer of Oklahoma Futures.

1. Oklahoma Futures shall submit a list of at least three (3) nominees from a national search to the Governor. The Governor is free to appoint any individual to be the chief executive officer of Oklahoma Futures and the Director of the Oklahoma Department of Commerce, with the advice and consent of the Senate, giving

reasonable consideration to the nominees submitted by Oklahoma Futures.

2. The Oklahoma Department of Commerce shall provide administrative staff and other assistance to Oklahoma Futures to develop annual five-year statewide economic plans, and manage and support the state's decentralized economic innovation system and economic information system. In addition, the Director shall designate one employee who shall devote full time to providing staff assistance to Oklahoma Futures.

K. Pursuant to rules promulgated by Oklahoma Futures, members shall be reimbursed for actual and necessary travel expenses in performing their duties as members of Oklahoma Futures.

L. In making appointments to the board of directors of Oklahoma Futures, appropriate consideration shall be given to representation upon the board by race, gender and geographical area.

SECTION 27. AMENDATORY Section 1, Chapter 259, O.S.L. 1992 (74 O.S. Supp. 1993, Section 5003.10), is amended to read as follows:

Section 5003.10 The Oklahoma Department of Commerce shall have the authority to:

1. Disseminate information concerning the industrial, commercial, governmental, educational, cultural, agricultural, business and other advantages and attractions of the state;

2. Assist public and private agencies in the preparation of informational and publicity programs designed to attract or retain business and industry for the state;

3. Obligate and expend funds for services performed by local political subdivisions of the state, state agencies, including universities and colleges within and without the state, and federal agencies for research and training in conformity with the general state laws governing such activity; and apply for, accept, administer and expend grants from the federal government and any other public or private sources for research and training purposes;

4. Conduct, publish and disseminate or encourage research designed to further new and more extensive uses of the natural and other resources of the state and designed to develop and commercialize new products and commercial processes;

5. Study trends and developments in the industries of the state and analyze the reasons underlying such trends; study costs within the state; and make recommendations regarding circumstances promoting or hampering business and industrial development;

6. Generally gather, compile and make available economic analyses and statistical information relating to business, trade, commerce, industry, transportation, communication, natural resources, population and other like subjects in this state, with authority to call upon other agencies, universities and colleges of the state for statistical data and results obtained by them, and to arrange and compile such economic analyses and statistical information in such a manner as it deems advisable;

7. Study such other scientific, industrial, financial and economic issues as, in the judgment of the Department, shall be deemed of value to the people of the state;

8. Support and assist the efforts of state, regional and local development organizations, industrial committees, chambers of commerce, agricultural organizations, labor organizations and other similar public and private agencies to obtain new and to foster expansion of existing service, industrial and manufacturing facilities, businesses and enterprises; and to foster community improvements in leadership, expertise, human development, infrastructure, public facilities and quality of life; and to expand data availability and utilization opportunities;

9. Maintain a continuing evaluation of the sources available for the financing of the development or expansion of industrial, agricultural and commercial facilities in this state through both public and private agencies;

10. Assist in obtaining financing for the development and expansion of industrial, agricultural and commercial facilities in the state;

11. Serve as the state's official liaison agency between persons interested in locating new economic enterprises in Oklahoma and state and local groups seeking new enterprises. In this respect, the Department shall aid communities in organizing for and obtaining new businesses and expanding existing businesses and shall process requests which reflect interest in locating economic enterprises in the state;

12. Promote the sale and facilitate the marketing of Oklahoma products including agricultural and value-added products in the international market;

13. Encourage the location of foreign manufacturing plants and other industries in Oklahoma;

14. Coordinate the international efforts of the various state agencies without violating the individual authority given those agencies by statute;

15. Coordinate and serve as liaison to the private sector as needed;

16. Establish, subject to an annual appropriation or private gifts, offices outside the state boundaries. The offices may be operated by the state or may be operated pursuant to contract which shall not be subject to the competitive bid laws of the State of Oklahoma. The Department shall prepare an annual report concerning the activities of the offices and submit it to the Governor and the Legislature. The Director of the Oklahoma Department of Commerce shall notify in writing the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives that the Department intends to establish a new office pursuant to this paragraph at least thirty (30) days prior to the establishment of the new office or execution of a contract; ~~and~~

17. Establish a system of not less than six geographic regions for promoting new or existing businesses, assisting in the expansion of small and medium sized manufacturers through a modernization program, creating new jobs, and assisting local businesses, political subdivisions or other entities to better utilize the services of the Department; and

18. Solicit, accept and expend donations and contributions from any source, whether public or private, in order to advertise, promote or disseminate information which may assist in the recruitment of companies, firms or jobs to Oklahoma, including but not limited to the Oklahoma Quality Jobs Program Act, and any other acts which the Department administers or which may assist the Department in the performance of its mission. The Department shall deposit any funds collected pursuant to this paragraph in the "Oklahoma Department of Commerce Revolving Fund" created by Section 5012 of this title.

SECTION 28. AMENDATORY 74 O.S. 1991, Section 5064.4, is amended to read as follows:

Section 5064.4 The Oklahoma Department of Commerce shall establish a program to provide assistance to inventors. The program shall be designed to:

1. Attract inventors from throughout this state, the nation and other countries and encourage them to submit their proposals for review and evaluation;

2. Provide assistance to inventors whose proposals are accepted which shall include patent searches, market analysis, product research and development, assistance in obtaining financing, business counseling, and any other assistance necessary to develop the product to the commercial stage which is not prohibited by the Constitution or laws of this state and further to protect both the state and the inventor, this section would require a disclosure document be on file with the U.S. Patent Office before the state will review proposal; ~~and~~

3. Provide assistance and training to inventors to enable the manufacturing, marketing and distribution of ~~the~~ their product;

4. Provide assistance to the Inventors and Entrepreneurs Institute; and

5. Improve the entrepreneurial skills of the state's workforce in order to foster innovation, product development and new high quality jobs.

SECTION 29. AMENDATORY 74 O.S. 1991, Section 5064.5, is amended to read as follows:

Section 5064.5 The Oklahoma Department of Commerce shall have the power to:

1. Enter into contracts on a competitive bid basis with public and private agencies, institutions, organizations and individuals for the purpose of providing assistance to and services for inventors and entrepreneurs as required by this act;

2. Solicit the support and contributions of public and private agencies, organizations, institutions and individuals;

3. Receive and administer funds for the purpose of operating the inventors ~~assistance~~ and entrepreneurs program;

4. Advertise and promote the inventors ~~assistance~~ and entrepreneurs program; ~~and~~

5. Collect reasonable fees based on actual direct and indirect costs for programmatic services extended to users of the inventors and entrepreneurs program; and

6. Promulgate rules and regulations to implement the provisions of this act.

SECTION 30. AMENDATORY 74 O.S. 1991, Section 5064.8, is amended to read as follows:

Section 5064.8 There is hereby created in the State Treasury a separate revolving fund for the Oklahoma Department of Commerce, to be designated the "Inventors ~~Assistance~~ and Entrepreneurs Program Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Department for implementation of ~~the Inventors Assistance Act, Section 5064.1 et seq. of this title act~~ from all funds appropriated thereto by the Legislature, all fees received pursuant to ~~Section 5064.1 et seq. of this title act~~, any federal funds, gifts, private and matching funds and all contributions dedicated thereto from private, state, federal or whatever source. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department for the purpose of implementing this act; however, monies expended for administrative costs shall not exceed five percent (5%) of the total amount of monies in said fund. Any amount in said fund not directly needed to implement the provisions of ~~Section 5064.1 et~~

~~sec. of this title act~~ shall go to the General Revenue Fund of the state. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 31. AMENDATORY 74 O.S. 1991, Section 5064.9, is amended to read as follows:

Section 5064.9 The Director of the Oklahoma Department of Commerce shall submit an annual report on or before December 31 of each year to the Governor and the Legislature which shall include, but not be limited to:

1. The number of ~~proposals submitted for review and evaluation~~ seminars and training programs held for inventors and entrepreneurs and the number of persons attending such seminars and programs;

2. The number of ~~proposals accepted for development and the number rejected~~ inventors and entrepreneurs assisted;

3. ~~The number of products patented;~~

4. ~~The number of products developed to the commercial stage;~~

5. ~~The number of jobs created and preserved as a result of the manufacturing, marketing, packaging, warehousing and distribution of products~~ this program; and

~~6.~~ 4. An estimate of the multiplier effect on the Oklahoma economy as a result of jobs so created and preserved.

SECTION 32. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 85.45i of Title 74, unless there is created a duplication in numbering, reads as follows:

No later than December 31, 1994, each municipality with a population of three hundred thousand (300,000) or more according to the latest Federal Decennial Census shall conduct a study to determine the disparity, if any, in minority business contracts awarded by such municipality, and to determine the feasibility of the establishment of a percentage preference bid program that provides for a minimum of five percent (5%) of the funds expended on municipal contracts to be awarded to minority business

enterprises as certified by the Oklahoma State Purchasing Director under the Oklahoma Minority Business Enterprise Assistance Act, Sections 85.45 through 85.45h of Title 74 of the Oklahoma Statutes.

SECTION 33. REPEALER 62 O.S. 1991, Section 695.8b, is hereby repealed.

SECTION 34. REPEALER 62 O.S. 1991, Section 695.10, is hereby repealed.

SECTION 35. Sections 14 through 21 of this act shall not have the force or effect of law if Sections 1 through 8 of Enrolled House Bill No. 2627 of the 2nd Session of the 44th Oklahoma Legislature become law.

SECTION 36. Sections 24, 25, 33 and 34 of this act shall become effective July 1, 1994.

SECTION 37. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-L9964 MAH