

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1619

By: Nance, Auffet, Hilliard,
Kiesel, McMullen, Calvey,
Sherrer and Nations of the
House

and

Leftwich and Gumm of the
Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to economic development; creating the Oklahoma Quality Investment Act; providing short title; stating legislative intent; defining terms; authorizing Quality Investment Contracts; prescribing duration of agreements; prescribing amount of incentive payments; imposing limitation upon amount of incentive payments; authorizing units of local government to enter into Quality Investment Contracts; imposing maximum limitation upon incentive payments each fiscal year; prescribing procedures related to Quality Investment Contracts; prescribing qualifications for eligible establishments; prescribing incentive payment claim procedures; providing for reduction of incentive payment amount; providing for cessation of payments under certain circumstances; providing for payments under certain conditions; prohibiting applications for incentive payments for prescribed period; providing for issuance of warrants; providing for meetings and duties of Quality Investment Committee; providing additional duties for certain public officials; providing limitations on scope and amount of payments pursuant to Quality Investment Act; prohibiting receipt of certain benefits or incentives based upon receipt of incentive payments pursuant to Oklahoma Quality Investment Act; providing for promulgation of rules; imposing criminal penalties for certain conduct; authorizing fine or imprisonment; providing for performance review by Oklahoma Department of Commerce or service provider; specifying content of review; prescribing procedures for filing; amending 25 O.S. 2001, Section 307, as amended by Section 1, Chapter 175, O.S.L. 2003 (25 O.S. Supp. 2004, Section 307), which relates to the Oklahoma Open Meeting Act; authorizing executive sessions for certain discussions by the Quality Investment Committee; amending Sections 1, 3 and 5, Chapter 391, O.S.L. 2004 (68 O.S. Supp. 2004, Sections 4101, 4103 and 4105), which relate to the Oklahoma Quality Investment Act; modifying short title; modifying

references; providing for codification; and providing a contingent effective date.

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 4201 of Title 68, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Quality Investment Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4202 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. It is the purpose of this act to implement the provisions of the constitutional amendment contained in Enrolled Senate Bill No. 755 of the 1st Session of the 50th Oklahoma Legislature.

B. It is the intent of the Legislature that:

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

- a. that yield higher long-term benefits for job retention and increase the wealth of the state,
- b. that create competitive advantages for the State of Oklahoma in attracting and retaining industries and jobs, and
- c. that hold the promise of significant modernization and retooling that will assure the stability of the industry in Oklahoma and, by doing so, help enlarge the tax base and stabilize the economy of the State of Oklahoma when there is a direct threat to the existing revenue base and wealth of the state because existing establishments are at risk of being lost to other states or nations;

2. The amount of incentives provided pursuant to this act in connection with a particular establishment be directly related to benefits caused by retention of jobs and investment and the placing of new investment, created as a result of the establishment modernizing and retooling in, and thereby remaining and growing in the State of Oklahoma as reflected by the economic impact, historical contributions trends and tax revenue projections analyses;

3. The Quality Investment Committee created by this act, the Oklahoma Department of Commerce, the Oklahoma Tax Commission, the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives implement the provisions of this act and exercise all powers as authorized in this act. The exercise of powers conferred by this act shall be deemed and held to be the performance of essential public purposes; and

4. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company or corporation or association. Nor does this act authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association. Nothing herein shall be construed to constitute a gift by the State of Oklahoma to any individual, company, corporation or association.

C. In fiscal years when the provisions of subparagraph a of paragraph 6 of Section 23 of Article X of the Oklahoma Constitution are not applicable and the balance at the beginning of such fiscal year in the Constitutional Reserve Fund is equal to or greater than Eighty Million Dollars (\$80,000,000.00), up to Ten Million Dollars (\$10,000,000.00) may be expended for the purpose of providing incentives to support retention of at-risk manufacturing establishments in this state in order to retain employment for residents of this state. Such incentives shall be paid by the

Oklahoma Tax Commission upon a unanimous finding by the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate that:

1. Such incentives have been recommended by the Quality Investment Committee created by this act pursuant to criteria set out by law;

2. The incentive will result in a substantial benefit to this state; and

3. Payment of the incentive would be in accordance with law.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4203 of Title 68, unless there is created a duplication in numbering, reads as follows:

For purposes of the Oklahoma Quality Investment Act:

1. "At-risk establishments" are those manufacturing establishments, presently existing in Oklahoma which the Quality Investment Committee, as described in paragraph 6 of this section, finds would be lost within the state based on changes in global economies, establishment structure, consolidation of establishments, and which are structurally noncompetitive but which could regain a competitive position with new investment if incentives are offered;

2. "Capital costs" means costs for land, building, improvements to buildings, fixtures and for machinery and equipment as those terms are described in Section 2902 of Title 68 of the Oklahoma Statutes;

3. "Economic impact" means economic impact as described in analyses that identify the value in terms of sales tax and income tax revenues to the state and to the local community of the establishment that the retention and expansion or modernization of the manufacturing site provides. The Oklahoma Department of Commerce may contract for the performance of an economic impact analysis to aid it in determining whether to recommend entering into a Quality Investment Contract with a particular establishment;

4. "Historical contributions trends" means historical contributions of an establishment as described in analyses of direct and indirect historical contributions to the state and local economies that an establishment has had on jobs and tax base growth, and on payroll and tax revenue inputs and growth. Analyses shall include consideration of positive trends attributable to suppliers of the establishment. The Oklahoma Department of Commerce may contract for the performance of an historical contributions analysis to aid the Quality Investment Committee in determining whether to recommend entering into a Quality Investment Contract with a particular establishment;

5. "Local community" means the town or city and the county of the location of the establishment; provided, a city or town and a county may jointly constitute the "local community";

6. "Quality Investment Committee" means the independent committee referenced in paragraph 6 of Section 23 of Article X of the Oklahoma Constitution that consists of the following members:

- a. the Director of the Oklahoma Department of Commerce,
- b. the Dean of Engineering of Oklahoma State University,
- c. the Director of the Oklahoma Alliance for Manufacturing Excellence,
- d. the Dean of the Price Business College of the University of Oklahoma,
- e. the Executive Director for the Oklahoma Center for the Advancement of Science and Technology,
- f. one small business representative from the Oklahoma Science and Technology Research and Development Board, and
- g. the State Director of Career Technology Education;

7. "Tax revenues projections" means a projection of anticipated tax revenues based upon an analysis of historic taxes collected from

the establishment in the local community and in the state overall over the previous ten (10) years in order to determine:

- a. the average of the growth percentages to determine the projected growth in such revenues to the community and the state over the following ten (10) years if no retooling occurs but retention is assumed to be a constant and remains stagnant,
- b. the modernization or retooling project's estimated impact on tax revenues and growth rates over the following ten (10) years, and
- c. the projections of loss in tax revenues should the plant location close and operations, in whole or in part, are removed from the state.

The Oklahoma Department of Commerce may contract with the Oklahoma Tax Commission for performance of tax revenues projections analyses to aid it in determining whether to enter into an agreement upon recommendation of the Quality Investment Committee;

8. "Establishment" means a manufacturer that is a partnership, limited partnership, corporation, limited liability company, limited liability partnership, or sole proprietorship. The establishment may enter into a Quality Investment Contract pertaining to only one manufacturing site as that term is defined in Section 1352 of Title 68 of the Oklahoma Statutes. No combination of other locations of the establishment, or any related entities of the establishment is contemplated. An establishment may have multiple contracts due to multiple sites or multiple expansions due to retooling and modernization at one site;

9. "NAICS" Manual means any manual book or other publication containing the North American Industry Classification System, United States, 1997, or as updated or amended from time to time, promulgated by the Office of Management and Budget of the United States of America; and

10. "Start date" means the date on which an establishment may begin accruing benefits for investment of new capital costs in a manufacturing site that is assigned in the agreement with the Oklahoma Department of Commerce.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4204 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 Investment Act may apply to enter into a Quality Investment Contract to receive annual incentive payments over a five-year period from the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Investment Act in an amount which shall not exceed ten percent (10%) of the amount of actual capital costs invested pursuant to a Quality Investment Contract developed and executed pursuant to this act. The Committee shall review economic impacts, historical contributions trends and tax revenue projections analyses conducted by or on behalf of the Oklahoma Department of Commerce, and shall consider whether or not the establishment is located in an economically distressed area of the state, the number of jobs which are at risk, and the average salary of the jobs which are at risk for the purposes of making recommendations for offering a Quality Investment Contract and the percentage of investment which shall be provided as incentive payments. Provided, incentive payments shall in no event exceed ten percent (10%) of the capital costs actually incurred for the Oklahoma site that is the subject of the agreement. Provided, a county, town or municipality in which an establishment eligible to receive annual incentive payments pursuant to this section is located may join in the Quality Investment Contract with the state and the establishment and set out that it intends to annually appropriate a portion of local sales tax revenue that shall be included in the incentive payments.

Provided further, the Quality Investment Committee may not recommend and the state shall not enter into contracts that would result in payments from state revenues to all establishments in the program in an amount in excess of Ten Million Dollars (\$10,000,000.00) in any fiscal year. The maximum amount of projected investment for purposes of a contract made pursuant to this act shall not exceed Fifty Million Dollars (\$50,000,000.00).

B. In order to receive incentive payments, an establishment shall apply to and enter into a Quality Investment Contract with the Oklahoma Department of Commerce on behalf of the state and the local community when the town, city or county resolve to join with the agreement. The application shall be on a form prescribed by the Committee and shall contain such information as may be required by the Committee and the Oklahoma Department of Commerce to determine if the applicant is qualified.

C. In order to qualify to receive such payments, the establishment applying shall be required to:

1. Be engaged in manufacturing in activities described under Industry Group Nos. 31 through 33 of the NAICS Manual;

2. Incur capital costs for new retooling or modernization projected to equal or exceed One Million Dollars (\$1,000,000.00) within twenty-four (24) months of the start date; and

3. Apply to and enter into a Quality Investment Contract specifying:

- a. the amount of capital investment the establishment must make within twenty-four (24) months of the start date in order to remain in the Oklahoma Quality Investment Program,
- b. the total minimum amount of Oklahoma taxable payroll it will maintain in this state during the course of the agreement,
- c. the total amount in incentive payments it may receive,

- d. if applicable, the amount of local revenues a county or municipality intends to apportion to the establishment annually, and
- e. that it will offer "basic health insurance" as defined in the Oklahoma Quality Jobs Program Act, within twelve (12) months of entering into a Quality Investment Contract.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4205 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 year for which an establishment has qualified to receive an incentive payment, the establishment shall file a claim for the payment with the Oklahoma Tax Commission for one-tenth (1/10) or less of the total amount of investment identified and specified in its Quality Investment Contract. Provided, in the event the establishment applies for an incentive payment before all investment for retooling or modernization has occurred, the payment shall be reduced by the percentage of investment costs predicted but not incurred at the time of the claim as those costs bear to the whole investment. In no event shall the first claim for investment payment be filed later than two (2) years from the start date designated by the Quality Investment Committee. The Tax Commission shall verify for each calendar year the actual amount of capital investment in Oklahoma and the amounts of local communities' sales tax rebates for the establishment. 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 reject the establishment's claim.

B. If the capital costs for investment in retooling or investment does not meet or exceed One Million Dollars (\$1,000,000.00) within twenty-four (24) months of the start date of

the establishment as set out in its agreement with the Quality Investment Committee, incentive payments shall cease and shall not be resumed.

C. An establishment that has qualified pursuant to Section 4 of this act may receive payments only in accordance with the provisions under which it initially applied and was approved.

D. An establishment that is receiving incentive payments may not apply for additional incentive payments for any new capital improvement projects until twelve (12) quarters after receipt of the first incentive payment, or until the establishment's actual verified capital costs of retooling and modernization equals or exceeds One Million Dollars (\$1,000,000.00), whichever comes first. After meeting the requirements of this subsection, an establishment may apply for additional incentive payments based upon additional retooling and modernization capital costs and investment.

E. As soon as practicable after verification of the eligibility of the manufacturer as required by this section, the Tax Commission shall issue a warrant to the establishment.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4206 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Quality Investment Committee shall meet not less than once per quarter and consider applications for Quality Investment Contracts from at-risk establishments. The Committee shall review each application received since its last meeting and consider for each application economic impacts, historical contributions trends and tax revenue projections analyses conducted by or on behalf of the Oklahoma Department of Commerce; whether the establishment is located in an economically distressed area of the state; whether loss of the establishment would cause the local community to become an economically distressed area; the number of jobs of Oklahoma

citizens which are at risk; and the average salary of the jobs which are at risk.

B. Based on its review of applications, the Committee shall make recommendations to the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate as to which applications for investment contracts should be approved and the percentage of investment the state should make as an incentive payment to the at-risk establishment for those contracts which are approved. In making such recommendations the Committee shall not make recommendations for Quality Investment Contracts which could require payments in any year in excess of the amount allowed by the Oklahoma Quality Investment Act or the provisions of Section 23 of Article X of the Oklahoma Constitution.

C. The Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate shall meet as often as is necessary to consider recommendations of the Quality Investment Committee. The Governor shall schedule and chair such meetings. Quality Investment Contracts shall only be entered into upon the unanimous approval by the Governor, the Speaker of the House of Representatives and the President Pro Tempore of the Senate of the terms of the contract. A decision on recommendations of the Quality Investment Committee shall be made within thirty (30) days of receipt of such recommendations.

D. For any fiscal year, the incentives shall not exceed ten percent (10%) of the amount invested by an establishment in capital assets to be utilized in this state. The contract shall make payment of any incentives in any fiscal year contingent on the balance at the beginning of such fiscal year in the Constitutional Reserve Fund being equal to or greater than Eighty Million Dollars (\$80,000,000.00) and on the certification by the State Board of Equalization for such fiscal year General Revenue Fund being greater than that of the preceding fiscal year certification. Investment

contracts authorized by this act shall provide that if any incentive payment is payable during a fiscal year in which either the balance at the beginning of the fiscal year in the Constitutional Reserve Fund is not equal to or greater than Eighty Million Dollars (\$80,000,000.00) or when the certification by the State Board of Equalization for such fiscal year General Revenue Fund is less than that of the immediately prior fiscal year certification, then any incentive payments which would have been payable during such fiscal year shall be payable in the first fiscal year when funds are available pursuant to the provisions of division 1 of subparagraph (b) of paragraph 6 of Section 23 of Article X of the Oklahoma Constitution. In the event that the amount of incentives due in any year under investment contracts authorized by this subsection is less than the amounts available for payment under this subsection in such year, then incentives payments for such year shall be reduced pro rata.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4207 of Title 68, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of this act, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the incentive payment was received:

1. Section 625.1 of Title 36 of the Oklahoma Statutes (premium tax credits);
2. Paragraph 7 of Section 1359 of Title 68 of the Oklahoma Statutes (construction materials sales tax refunds);
3. Section 2357.4 of Title 68 of the Oklahoma Statutes (new jobs/investment income tax credits);

4. Section 2357.7 of Title 68 of the Oklahoma Statutes (venture capital investment credits);

5. Section 2-11-303 of Title 27A of the Oklahoma Statutes (pollution control equipment investment income tax credits);

6. Section 2357.22 of Title 68 of the Oklahoma Statutes (income tax credits for investment in clean-burning motor fuel vehicles);

7. Section 2357.31 of Title 68 of the Oklahoma Statutes (small business income tax credits);

8. Section 54003 of Title 68 of the Oklahoma Statutes (research and development or computer services sales tax refunds);

9. Subsections C and D of Section 2357.29 of Title 68 of the Oklahoma Statutes (recycling income tax credits);

10. Section 2902 of Title 68 of the Oklahoma Statutes (state reimbursement to communities for property tax exemptions to manufacturers);

11. Section 3601 et seq. of Title 68 of the Oklahoma Statutes (Oklahoma Quality Jobs Program Act);

12. Section 3701 et seq. of Title 68 of the Oklahoma Statutes (Saving Quality Jobs Act);

13. Section 3801 et seq. of Title 68 of the Oklahoma Statutes (Former Military Facilities Development Act);

14. Section 3901 et seq. of Title 68 of the Oklahoma Statutes (Small Employer Quality Jobs Incentive Act);

15. Sections 3651 through 3659 of Title 68 of the Oklahoma Statutes (Quality Jobs Incentive Leverage Act); and

16. Section 4101 et seq. of Title 68 of the Oklahoma Statutes (Oklahoma Specialized Quality Investment Act).

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4208 of Title 68, unless there is created a duplication in numbering, reads as follows:

The Oklahoma Department of Commerce and the Oklahoma Tax Commission shall promulgate rules necessary to implement their

respective duties and responsibilities under the provisions of this act.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4209 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 this 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 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 10. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4210 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Department of Commerce shall, using its own resources or through a contract with a service provider, conduct a five-year performance review of the Oklahoma Quality Investment Act. The performance review may include measures of economic productivity in areas or regions affected by the business activity of any recipient of a payment authorized pursuant to this act. Such

measures of economic productivity may include, but shall not be limited to, total payroll statistics, business activity supported by the business activity of the payment recipients, growth in property tax values attributable to capital expansion, growth in state or local tax sources attributable to capital expansion, increased investment activity by other business entities, business site location inquiries related to the business activity of a recipient or such other indicators of the net benefits to the State of Oklahoma or an economic region as the Department of Commerce or its service provider may select.

B. The results of the five-year performance review shall be provided in a written report to be submitted not later than January 31, 2012, and not later than January 31 each successive five-year period covering the results of performance measurement of the Oklahoma Quality Investment Act as conducted pursuant to subsection A of this section. The first such report shall only be required to address the performance measures for the period of July 1, 2006, through December 31, 2011. The report shall be provided to the Governor, the Speaker of the Oklahoma House of Representatives, the President Pro Tempore of the State Senate and to each member of the Quality Investment Committee.

C. The Quality Investment Committee shall use the results of the five-year performance report in making determinations required of it pursuant to the Oklahoma Quality Investment Act.

SECTION 11. AMENDATORY 25 O.S. 2001, Section 307, as amended by Section 1, Chapter 175, O.S.L. 2003 (25 O.S. Supp. 2004, Section 307), is amended to read as follows:

Section 307. A. No public body shall hold executive sessions unless otherwise specifically provided in this section.

B. Executive sessions of public bodies will be permitted only for the purpose of:

1. Discussing the employment, hiring, appointment, promotion, demotion, disciplining or resignation of any individual salaried public officer or employee;
2. Discussing negotiations concerning employees and representatives of employee groups;
3. Discussing the purchase or appraisal of real property;
4. Confidential communications between a public body and its attorney concerning a pending investigation, claim, or action if the public body, with the advice of its attorney, determines that disclosure will seriously impair the ability of the public body to process the claim or conduct a pending investigation, litigation, or proceeding in the public interest;
5. Permitting district boards of education to hear evidence and discuss the expulsion or suspension of a student when requested by the student involved or the student's parent, attorney or legal guardian;
6. Discussing matters involving a specific handicapped child;
7. Discussing any matter where disclosure of information would violate confidentiality requirements of state or federal law;
8. Engaging in deliberations or rendering a final or intermediate decision in an individual proceeding pursuant to Article II of the Administrative Procedures Act; or
9. Discussing the following:
 - a. the investigation of a plan or scheme to commit an act of terrorism,
 - b. assessments of the vulnerability of government facilities or public improvements to an act of terrorism,
 - c. plans for deterrence or prevention of or protection from an act of terrorism,
 - d. plans for response or remediation after an act of terrorism,

- e. information technology of the public body but only if the discussion specifically identifies:
 - (1) design or functional schematics that demonstrate the relationship or connections between devices or systems,
 - (2) system configuration information,
 - (3) security monitoring and response equipment placement and configuration,
 - (4) specific location or placement of systems, components or devices,
 - (5) system identification numbers, names, or connecting circuits,
 - (6) business continuity and disaster planning, or response plans, or
 - (7) investigation information directly related to security penetrations or denial of services, or
- f. the investigation of an act of terrorism that has already been committed.

For the purposes of this subsection, the term "terrorism" means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

C. Notwithstanding the provisions of subsection B of this section, the following public bodies may hold executive sessions:

1. The State Banking Board, as provided for under Section 306.1 of Title 6 of the Oklahoma Statutes;

2. The Oklahoma Industrial Finance Authority, as provided for in Section 854 of Title 74 of the Oklahoma Statutes;

3. The Oklahoma Development Finance Authority, as provided for in Section 5062.6 of Title 74 of the Oklahoma Statutes;

4. The Oklahoma Center for the Advancement of Science and Technology, as provided for in Section 5060.7 of Title 74 of the Oklahoma Statutes;

5. The Oklahoma Savings and Loan Board, as provided for under subsection A of Section 381.74 of Title 18 of the Oklahoma Statutes;

6. The Oklahoma Health Research Committee for purposes of conferring on matters pertaining to research and development of products, if public disclosure of the matter discussed would interfere with the development of patents, copyrights, products, or services;

7. A review committee, as provided for in Section 855 of Title 62 of the Oklahoma Statutes;

8. The Child Death Review Board for purposes of receiving and conferring on matters pertaining to materials declared confidential by law;

9. The Domestic Violence Fatality Review Board as provided in Section 1601 of Title 22 of the Oklahoma Statutes;

10. All nonprofit foundations, boards, bureaus, commissions, agencies, trusteeships, authorities, councils, committees, public trusts, task forces or study groups supported in whole or part by public funds or entrusted with the expenditure of public funds for purposes of conferring on matters pertaining to economic development, including the transfer of property, financing, or the creation of a proposal to entice a business to remain or to locate within their jurisdiction if public disclosure of the matter discussed would interfere with the development of products or services or if public disclosure would violate the confidentiality of the business; ~~and~~

11. The Oklahoma Indigent Defense System Board for purposes of discussing negotiating strategies in connection with making possible counteroffers to offers to contract to provide legal representation to indigent criminal defendants and indigent juveniles in cases for which the System must provide representation pursuant to the provisions of the Indigent Defense System Act; and

12. The Quality Investment Committee for purposes of discussing applications and confidential materials pursuant to the terms of the Oklahoma Quality Investment Act.

D. An executive session for the purpose of discussing the purchase or appraisal of real property shall be limited to members of the public body, the attorney for the public body, and the immediate staff of the public body. No landowner, real estate salesperson, broker, developer, or any other person who may profit directly or indirectly by a proposed transaction concerning real property which is under consideration may be present or participate in the executive session.

E. No public body may go into an executive session unless the following procedures are strictly complied with:

1. The proposed executive session is noted on the agenda as provided in Section 311 of this title;

2. The executive session is authorized by a majority vote of a quorum of the members present and the vote is a recorded vote; and

3. Except for matters considered in executive sessions of the State Banking Board and the Oklahoma Savings and Loan Board, and which are required by state or federal law to be confidential, any vote or action on any item of business considered in an executive session shall be taken in public meeting with the vote of each member publicly cast and recorded.

F. A willful violation of the provisions of this section shall:

1. Subject each member of the public body to criminal sanctions as provided in Section 314 of this title; and

2. Cause the minutes and all other records of the executive session, including tape recordings, to be immediately made public.

SECTION 12. AMENDATORY Section 1, Chapter 391, O.S.L. 2004 (68 O.S. Supp. 2004, Section 4101), is amended to read as follows:

Section 4101. This act shall be known and may be cited as the "Oklahoma Specialized Quality Investment Act".

SECTION 13. AMENDATORY Section 3, Chapter 391, O.S.L. 2004 (68 O.S. Supp. 2004, Section 4103), is amended to read as follows:

Section 4103. For purposes of the Oklahoma Specialized Quality Investment Act:

1. "Capital costs" means costs for land, buildings, improvements to buildings, fixtures and for machinery, equipment and other personal property used in and for the manufacturing process incurred by a qualified establishment, on or after the effective date of this act, with respect to the manufacturing site located in this state and specified in a quality investment agreement;

2. "Department" means the Oklahoma Department of Commerce;

3. "Qualified establishment" means a business entity engaged in the activity described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification manual, latest revision. No establishment that has been certified as eligible to participate in the Oklahoma Quality Jobs Incentive Leverage Act incentive program shall be eligible for any investment payment pursuant to the Oklahoma Specialized Quality Investment Act. A qualified establishment shall enter into a quality investment agreement pertaining to a single manufacturing site as that term is defined in Section 1352 of ~~Title 68 of the Oklahoma Statutes~~ this title. No combination of other locations of an establishment or any related entities of an establishment shall be included in a quality investment agreement. An establishment may enter into additional quality investment agreements for additional sites;

4. "Fiscal year" means the state fiscal year, which shall begin on July 1 of a calendar year and end on June 30 of the next calendar year;

5. "Quality investment agreement" means an agreement with duration, for purposes of computing the total incentive payment amount, of not more than five (5) years entered into between a qualified establishment and the Department; and

6. "Start date" means the date on which a qualified establishment begins accruing benefits because of investment of new capital costs in a manufacturing site that is designated in a quality investment agreement with the Oklahoma Department of Commerce.

SECTION 14. AMENDATORY Section 5, Chapter 391, O.S.L. 2004 (68 O.S. Supp. 2004, Section 4105), is amended to read as follows:

Section 4105. There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Specialized Quality Investment Payment Fund". The Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Sections 1354 and 2355 of ~~Title 68 of the Oklahoma Statutes~~ this title for deposit into the fund. The amount deposited shall equal the sum of an amount required for making investment payments, as determined pursuant to the provisions 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 Oklahoma Specialized Quality Investment Act. The liability of the State of Oklahoma to make the investment payments under this act shall be limited to the balance contained in the fund created by this section.

SECTION 15. This act shall become effective upon the beginning of the first fiscal year following certification of election returns favoring passage of the Constitutional Amendment proposed in

Enrolled Senate Bill No. 755 of the 1st Session of the 50th Oklahoma
Legislature.

50-1-7652 MAH 05/26/05