

3 ENGROSSED

4 House Bill No. 1619

5 As Amended

6 ENGROSSED HOUSE BILL NO. 1619 - By: NANCE, AUFFET, HILLIARD, KIESEL,
7 McMULLEN, CALVEY, SHERRER and NATIONS of the House and LEFTWICH of
8 the Senate.

9 [economic development - Oklahoma Quality Investment Act -
10 effective date -
11 emergency]

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

13 SECTION 1. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4201 of Title 68, unless there
15 is created a duplication in numbering, reads as follows:

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

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

21 It is the intent of the Legislature that:

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

- 24 a. that yield higher long-term benefits for job retention
25 and increase the wealth of the state,

1 b. that create competitive advantages for the State of
2 Oklahoma in attracting and retaining industries and
3 thus jobs, and
4 c. that hold the promise of significant modernization and
5 retooling that will assure the stability of the
6 industry in Oklahoma and, by doing so, help enlarge
7 the tax base and stabilize the economy of the State of
8 Oklahoma when there is a direct threat to the existing
9 revenue base and wealth of the state because existing
10 establishments are at risk of being lost to other
11 states or nations;

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

20 3. The Quality Investment Committee created by this act, the
21 Oklahoma Department of Commerce and the Oklahoma Tax Commission
22 implement the provisions of this act and exercise all powers as
23 authorized in this act. The exercise of powers conferred by this

1 act shall be deemed and held to be the performance of essential
2 public purposes; and

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

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

14 For purposes of the Oklahoma Quality Investment Act:

15 1. "At-risk establishments" are those manufacturing
16 establishments, presently existing in Oklahoma which the Quality
17 Investment Committee as described in paragraph 7 of this section,
18 finds would be lost within the state based on changes in global
19 economies, establishment structure, consolidation attempts of
20 establishments, and which are structurally noncompetitive but such
21 position can be offset with new investment in plant and such other
22 factors as determined on a case-by-case basis, unless incentives are
23 offered;

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

5 3. "Oklahoma Department of Commerce" means that agency of the
6 state created pursuant to Section 5003.1 et seq. of Title 74 of the
7 Oklahoma Statutes;

8 4. "Economic impact" means economic impact analyses that
9 identify the value in terms of sales tax and income tax revenues to
10 the state and to the local community of the establishment that the
11 retention and expansion or modernization of the manufacturing site
12 provides. The Oklahoma Department of Commerce may contract for the
13 performance of an economic impact analysis to aid it in determining
14 whether to enter into a quality investment agreement with a
15 particular establishment, upon recommendation of the Quality
16 Investment Committee;

17 5. "Historical contributions trends" means analyses of
18 historical contributions both direct and indirect to the state and
19 local economies that an establishment has had on jobs and tax base
20 growth; and on payroll and tax revenue inputs and growth. Analyses
21 shall include consideration of positive trends attributable to
22 suppliers of the establishment. The Oklahoma Department of Commerce
23 may contract for the performance of an historical contributions

1 analysis to aid it in determining whether to enter into a quality
2 investment agreement with a particular establishment, upon
3 recommendation of the Quality Investment Committee;

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

7 7. "Quality Investment Committee" means a state board that
8 consists of the following members:

- 9 a. the Director of the Oklahoma Department of Commerce,
- 10 b. the Dean of Engineering of Oklahoma State University,
- 11 c. the Director of the Oklahoma Alliance for
12 Manufacturing Excellence,
- 13 d. the Dean of the Price Business College of the
14 University of Oklahoma,
- 15 e. the Executive Director for the Oklahoma Center for the
16 Advancement of Science and Technology,
- 17 f. one small business representative from the Oklahoma
18 Science and Technology Research and Development Board,
19 and
- 20 g. the State Director of Career Technology Education;

21 8. "Tax revenues projections" means an analysis of historic
22 taxes collected from the establishment in the local community and in

1 the state overall over the previous ten (10) years in order to
2 determine:

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

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

18 9. "Establishment" means a manufacturer that is a partnership,
19 limited partnership, corporation, limited liability company, limited
20 liability partnership, or sole proprietorship. The establishment
21 shall enter into an agreement pertaining to only one manufacturing
22 site as that term is defined in Section 1352 of Title 68 of the
23 Oklahoma Statutes. No combination of other locations of the

1 establishment, or any related entities of the establishment is
2 contemplated. An establishment may have multiple contracts due to
3 multiple sites or multiple expansions due to retooling and
4 modernization at one site;

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

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

14 SECTION 4. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4204 of Title 68, unless there
16 is created a duplication in numbering, reads as follows:

17 A. An establishment which meets the qualifications specified in
18 the Oklahoma Quality Investment Act may enter into a Quality
19 Investment agreement to receive annual investment payments over a
20 five-year period from the Oklahoma Tax Commission pursuant to the
21 provisions of the Oklahoma Quality Investment Act in an amount which
22 shall not exceed ten percent (10%) of the amount of actual capital
23 costs invested pursuant to a Quality Investment Contract developed

1 and executed pursuant to this act. Economic impacts, Historical
2 Contributions Trends and Tax Revenues Projections Analyses conducted
3 by or on behalf of the Oklahoma Department of Commerce, may be
4 performed and reviewed for the purposes of determining the
5 desirability of offering a Quality Investment agreement and the
6 percentage of investment payments. Provided, investment payments
7 shall in no event exceed ten percent (10%) of the retooling or
8 modernization capital costs actually purchased and existing on the
9 Oklahoma site that is the subject of the agreement. The Committee
10 and the Oklahoma Department of Commerce are directed to give equal
11 weight to retention benefits and growth benefits reflected in these
12 analyses. Provided, a county, town or municipality in which an
13 establishment eligible to receive annual investment payments
14 pursuant to this section is located may join in the Quality
15 Investment agreement with the state and the establishment and set
16 out that it intends to annually appropriate a portion of local sales
17 tax revenue that shall be included in the quality investment
18 payments.

19 Provided further, the Department of Commerce may not enter into
20 contracts that would result in payments from state revenues to all
21 establishments in the program in an amount in excess of Ten Million
22 Dollars (\$10,000,000.00) in any fiscal year. The maximum amount of

1 projected investment for purposes of a contract made pursuant to
2 this act shall not exceed Fifty Million Dollars (\$50,000,000.00).

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

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

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

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

18 3. Enter into a Quality Investment agreement specifying:

19 a. the amount of capital investment the establishment
20 must make within twenty-four (24) months of the start
21 date in order to remain in the Oklahoma Quality
22 Investment Program,

- 1 b. the total minimum amount of Oklahoma taxable payroll
2 it will maintain in this state during the course of
3 the agreement,
4 c. the total amount in investment payments it may receive
5 from state revenues,
6 d. if applicable, the amount of local sales tax revenues
7 a county or municipality intends to apportion to the
8 establishment annually, and
9 e. that it will offer "basic health insurance" as defined
10 in the Oklahoma Quality Jobs Program Act, within
11 twelve (12) months of entering into a quality
12 investment agreement.

13 SECTION 5. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 4205 of Title 68, unless there
15 is created a duplication in numbering, reads as follows:

16 There is hereby created within the State Treasury a special fund
17 for the Oklahoma Tax Commission to be designated the "Quality
18 Investment Payment Fund". The Oklahoma Tax Commission is hereby
19 authorized and directed to withhold a portion of the taxes levied
20 and collected pursuant to Sections 1354 and 2355 of Title 68 of the
21 Oklahoma Statutes for deposit into the fund. Provided, for taxes
22 collected on behalf of a municipality or county, that are specified
23 by an appropriation by the city, town or county, as part of the

1 local community to be included in the quality investment payments in
2 accordance with Section 4 of this act, then those amounts shall also
3 be deposited into the fund. The amount deposited shall equal the
4 sum of an amount provided by the Quality Investment Committee as
5 determined pursuant to the provisions of this act. All of the
6 amounts deposited in such fund shall be used and expended by the Tax
7 Commission solely for the purposes and in the amounts authorized by
8 the Oklahoma Quality Investment Act. The liability of the State of
9 Oklahoma to make the incentive payments under this act shall be
10 limited to the balance contained in the fund created by this
11 section.

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

15 A. As soon as practicable after the end of a calendar year for
16 which an establishment has qualified to receive an investment
17 payment, the establishment shall file a claim for the payment with
18 the Oklahoma Tax Commission for one-tenth (1/10) or less of the
19 total amount of investment identified and specified in its Quality
20 Investment agreement. Provided, in the event the establishment
21 applies for a payment before all investment for retooling or
22 modernization has occurred, the payment shall be reduced by the
23 percentage of investment costs predicted but not incurred at the

1 time of the claim as those costs bear to the whole investment. In
2 no event shall the first claim for investment payment be filed later
3 than two (2) years from the start date designated by the Quality
4 Investment Committee. The Tax Commission shall verify for each
5 calendar year the actual amount of capital investment in Oklahoma
6 and the amounts of local communities' sales tax rebates for the
7 establishment. If the Tax Commission is not able to provide such
8 verification utilizing all available resources, the Tax Commission
9 may request such additional information from the establishment as
10 may be necessary or may reject the establishments' claim.

11 B. If the capital costs for investment in retooling or
12 investment does not meet or exceed One Million Dollars
13 (\$1,000,000.00) within twenty-four (24) months of the start date of
14 the establishment as set out in its agreement with the Quality
15 Investment Committee, investment payments shall cease and shall not
16 be resumed.

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

20 D. An establishment that is receiving investment payments may
21 not apply for additional investment payments for any new capital
22 improvement projects until twelve (12) quarters after receipt of the
23 first investment payment, or until the establishment's actual

1 verified capital costs of retooling and modernization equals or
2 exceeds One Million Dollars (\$1,000,000.00) whichever comes first.
3 After meeting the requirements of this subsection, an establishment
4 may apply for additional investment payments based upon additional
5 retooling and modernization capital costs and investment.

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

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

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

19 1. Section 625.1 of Title 36 of the Oklahoma Statutes (premium
20 tax credits);

21 2. Paragraph 7 of Section 1359 of Title 68 of the Oklahoma
22 Statutes (construction materials sales tax refunds);

- 1 3. Section 2357.4 of Title 68 of the Oklahoma Statutes (new
2 jobs/investment income tax credits);
- 3 4. Section 2357.7 of Title 68 of the Oklahoma Statutes (venture
4 capital investment credits);
- 5 5. Section 2-11-303 of Title 27A of the Oklahoma Statutes
6 (pollution control equipment investment income tax credits);
- 7 6. Section 2357.22 of Title 68 of the Oklahoma Statutes (income
8 tax credits for investment in clean-burning motor fuel vehicles);
- 9 7. Section 2357.31 of Title 68 of the Oklahoma Statutes (small
10 business income tax credits);
- 11 8. Section 54003 of Title 68 of the Oklahoma Statutes (research
12 and development or computer services sales tax refunds);
- 13 9. Subsections C and D of Section 2357.29 of Title 68 of the
14 Oklahoma Statutes (recycling income tax credits);
- 15 10. Section 2902 of Title 68 of the Oklahoma Statutes (state
16 reimbursement to communities for property tax exemptions to
17 manufacturers);
- 18 11. Section 3601 et seq. of Title 68 of the Oklahoma Statutes
19 (Oklahoma Quality Jobs Program Act);
- 20 12. Section 3701 et seq. of Title 68 of the Oklahoma Statutes
21 (Saving Quality Jobs Act);
- 22 13. Section 3801 et seq. of Title 68 of the Oklahoma Statutes
23 (Former Military Facilities Development Act);

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

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

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

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

10 The Oklahoma Department of Commerce and the Tax Commission shall
11 promulgate rules necessary to implement their respective duties and
12 responsibilities under the provisions of this act.

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

16 Any person making an application, claim for payment or any
17 report, return, statement or other instrument or providing any other
18 information pursuant to the provisions of this act who willfully
19 makes a false or fraudulent application, claim, report, return,
20 statement, invoice or other instrument or who willfully provides any
21 false or fraudulent information, or any person who willfully aids or
22 abets another in making such false or fraudulent application, claim,
23 report, return, statement, invoice or other instrument or who

1 willfully aids or abets another in providing any false or fraudulent
2 information, upon conviction, shall be guilty of a felony punishable
3 by the imposition of a fine not less than One Thousand Dollars
4 (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00) or
5 imprisonment in the State Penitentiary for not less than two (2)
6 years and not more than five (5) years, or by both such fine and
7 imprisonment. Any person convicted of a violation of this section
8 shall be liable for the repayment of all investment payments which
9 were paid to the establishment. Interest shall be due on such
10 payments at the rate of ten percent (10%) per annum.

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

14 A. The Oklahoma Department of Commerce shall, using its own
15 resources or through a contract with a service provider, conduct a
16 five-year performance review of the Oklahoma Quality Investment Act.
17 The performance review may include measures of economic productivity
18 in areas or regions affected by the business activity of any
19 recipient of a payment authorized by the Oklahoma Quality Investment
20 Committee pursuant to this act. Such measures of economic
21 productivity may include, but shall not be limited to, total payroll
22 statistics, business activity supported by the business activity of
23 the payment recipients, growth in property tax values attributable

1 to capital expansion, growth in state or local tax sources
2 attributable to capital expansion, increased investment activity by
3 other business entities, business site location inquiries related to
4 the business activity of a recipient or such other indicators of the
5 net benefits to the State of Oklahoma or an economic region as the
6 Department of Commerce or its service provider may select.

7 B. The results of the five-year performance review shall be
8 provided in a written report to be submitted not later than January
9 31, 2010, and not later than January 31 each successive five-year
10 period covering the results of performance measurement of the
11 Oklahoma Quality Investment Act as conducted pursuant to subsection
12 A of this section. The first such report shall only be required to
13 address the performance measures for the period of July 1, 2005,
14 through December 31, 2005. The report shall be provided to the
15 Governor, the Speaker of the Oklahoma House of Representatives, the
16 President Pro Tempore of the State Senate and to each member of the
17 Quality Investment Committee.

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

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

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

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

5 1. Discussing the employment, hiring, appointment, promotion,
6 demotion, disciplining or resignation of any individual salaried
7 public officer or employee;

8 2. Discussing negotiations concerning employees and
9 representatives of employee groups;

10 3. Discussing the purchase or appraisal of real property;

11 4. Confidential communications between a public body and its
12 attorney concerning a pending investigation, claim, or action if the
13 public body, with the advice of its attorney, determines that
14 disclosure will seriously impair the ability of the public body to
15 process the claim or conduct a pending investigation, litigation, or
16 proceeding in the public interest;

17 5. Permitting district boards of education to hear evidence and
18 discuss the expulsion or suspension of a student when requested by
19 the student involved or the student's parent, attorney or legal
20 guardian;

21 6. Discussing matters involving a specific handicapped child;

22 7. Discussing any matter where disclosure of information would
23 violate confidentiality requirements of state or federal law;

1 8. Engaging in deliberations or rendering a final or
2 intermediate decision in an individual proceeding pursuant to
3 Article II of the Administrative Procedures Act; or

4 9. Discussing the following:

5 a. the investigation of a plan or scheme to commit an act
6 of terrorism,

7 b. assessments of the vulnerability of government
8 facilities or public improvements to an act of
9 terrorism,

10 c. plans for deterrence or prevention of or protection
11 from an act of terrorism,

12 d. plans for response or remediation after an act of
13 terrorism,

14 e. information technology of the public body but only if
15 the discussion specifically identifies:

16 (1) design or functional schematics that demonstrate
17 the relationship or connections between devices
18 or systems,

19 (2) system configuration information,

20 (3) security monitoring and response equipment
21 placement and configuration,

22 (4) specific location or placement of systems,
23 components or devices,

- 1 (5) system identification numbers, names, or
2 connecting circuits,
3 (6) business continuity and disaster planning, or
4 response plans, or
5 (7) investigation information directly related to
6 security penetrations or denial of services, or
7 f. the investigation of an act of terrorism that has
8 already been committed.

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

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

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

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

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

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

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

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

8 7. A review committee, as provided for in Section 855 of Title
9 62 of the Oklahoma Statutes;

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

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

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

1 services or if public disclosure would violate the confidentiality
2 of the business; ~~and~~

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

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

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

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

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

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

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

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

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

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

14 SECTION 12. AMENDATORY Section 1, Chapter 391, O.S.L.
15 2004 (68 O.S. Supp. 2004, Section 4101), is amended to read as
16 follows:

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

19 SECTION 13. AMENDATORY Section 3, Chapter 391, O.S.L.
20 2004 (68 O.S. Supp. 2004, Section 4103), is amended to read as
21 follows:

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

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

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

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

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

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

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

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

16 Section 4105. There is hereby created within the State Treasury
17 a special fund for the Oklahoma Tax Commission to be designated the
18 "Specialized Quality Investment Payment Fund". The Tax Commission
19 is hereby authorized and directed to withhold a portion of the taxes
20 levied and collected pursuant to Sections 1354 and 2355 of ~~Title 68~~
21 ~~of the Oklahoma Statutes~~ this title for deposit into the fund. The
22 amount deposited shall equal the sum of an amount required for
23 making investment payments, as determined pursuant to the provisions

1 of this act. All of the amounts deposited in such fund shall be
2 used and expended by the Tax Commission solely for the purposes and
3 in the amounts authorized by the Oklahoma Specialized Quality
4 Investment Act. The liability of the State of Oklahoma to make the
5 investment payments under this act shall be limited to the balance
6 contained in the fund created by this section.

7 SECTION 15. This act shall become effective July 1, 2005.

8 SECTION 16. It being immediately necessary for the preservation
9 of the public peace, health and safety, an emergency is
10 hereby declared to exist, by reason whereof this act shall take
11 effect and be in full force from and after its passage and approval.
12 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 3-29-05 - DO PASS,
13 As Amended and Coauthored.