

3 **Senate Bill No. 1587**  
4 **As Amended**

5 SENATE BILL NO. 1587 - By: PADDACK of the Senate and HILLIARD of the  
6 House.

7 [ revenue and taxation - Oklahoma Quality Jobs Program Act -  
8 waiving requirements - effective date -  
9 emergency ]

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

11 SECTION 1. AMENDATORY 68 O.S. 2001, Section 3604, as  
12 last amended by Section 2, Chapter 457, O.S.L. 2004 (68 O.S. Supp.  
13 2005, Section 3604), is amended to read as follows:

14 Section 3604. A. Except as otherwise provided in subsection I  
15 of this section, an establishment which meets the qualifications  
16 specified in the Oklahoma Quality Jobs Program Act may receive  
17 quarterly incentive payments for a ten-year period from the Oklahoma  
18 Tax Commission pursuant to the provisions of the Oklahoma Quality  
19 Jobs Program Act in an amount which shall be equal to the net  
20 benefit rate multiplied by the actual gross payroll of new direct  
21 jobs for a calendar quarter as verified by the Oklahoma Employment  
22 Security Commission.

23 B. In order to receive incentive payments, an establishment  
24 shall apply to the Oklahoma Department of Commerce. The application  
25 shall be on a form prescribed by the Department and shall contain

1 such information as may be required by the Department to determine  
2 if the applicant is qualified.

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

6 1. Be engaged in a basic industry;

7 2. Have an annual gross payroll for new direct jobs projected  
8 by the Department to equal or exceed Two Million Five Hundred  
9 Thousand Dollars (\$2,500,000.00) within three (3) years of the start  
10 date; and

11 3. Have a number of full-time-equivalent employees working an  
12 annual average of twenty-five (25) or more hours per week in new  
13 direct jobs equal to or in excess of eighty percent (80%) of the  
14 total number of new direct jobs.

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

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

20 a. have an annual gross payroll for new direct jobs  
21 projected by the Department to equal or exceed One  
22 Million Five Hundred Thousand Dollars (\$1,500,000.00)  
23 within three (3) years of the start date and make, or

1           which will make within one (1) year, at least seventy-  
2           five percent (75%) of its total sales, as determined  
3           by the Incentive Approval Committee pursuant to the  
4           provisions of subsection B of Section 3603 of this  
5           title, to out-of-state customers or buyers, to in-  
6           state customers or buyers if the product or service is  
7           resold by the purchaser to an out-of-state customer or  
8           buyer for ultimate use, or to the federal government,  
9           unless the annual gross payroll equals or exceeds Two  
10          Million Five Hundred Thousand Dollars (\$2,500,000.00)  
11          in which case the requirements for purchase of output  
12          provided by this subparagraph shall not apply, and  
13          b.    have a number of full-time-equivalent employees  
14                working an average of twenty-five (25) or more hours  
15                per week in new direct jobs equal to or in excess of  
16                eighty percent (80%) of the total number of new direct  
17                jobs; and

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

20                a.    have an annual gross payroll for new direct jobs  
21                      projected by the Department to equal or exceed One  
22                      Million Five Hundred Thousand Dollars (\$1,500,000.00)  
23                      within three (3) years of the start date, and

1           b.    have a number of full-time-equivalent employees  
2                    working an average of twenty-five (25) or more hours  
3                    per week in new direct jobs equal to or in excess of  
4                    eighty percent (80%) of the total number of new direct  
5                    jobs.

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

- 8           a.    is a federal Superfund removal site,  
9           b.    is listed on the National Priorities List established  
10                   under Section 9605 of Title 42 of the United States  
11                   Code,  
12           c.    has been formally deferred to the state in lieu of  
13                   listing on the National Priorities List, or  
14           d.    has been determined by the Department of Environmental  
15                   Quality to be contaminated by any substance regulated  
16                   by a federal or state statute governing environmental  
17                   conditions for real property pursuant to an order of  
18                   the Department of Environmental Quality,

19 shall qualify for incentive payments irrespective of its actual  
20 gross payroll or the number of full-time-equivalent employees  
21 engaged in new direct jobs.

22           2.  In order to qualify for the incentive payments pursuant to  
23 this subsection, the establishment shall conduct the activity

1 resulting in at least fifty percent (50%) of its Oklahoma taxable  
2 income or adjusted gross income, as determined under Section 2358 of  
3 this title, whether from the sale of products or services or both  
4 products and services, at the physical location which has been  
5 determined not to comply with the federal or state statutes  
6 described in this subsection with respect to environmental  
7 conditions for real property. The establishment shall be subject to  
8 all other requirements of the Oklahoma Quality Jobs Program Act  
9 other than the exemptions provided by this subsection.

10 3. In order to qualify for the incentive payments pursuant to  
11 this subsection, the entity shall obtain from the Department of  
12 Environmental Quality a letter of concurrence that:

- 13 a. the site designated by the entity does meet one or  
14 more of the requirements listed in paragraph 1 of this  
15 subsection, and  
16 b. the site is being or has been remediated to a level  
17 which is consistent with the intended use of the  
18 property.

19 In making its determination, the Department of Environmental  
20 Quality may rely on existing data and information available to it,  
21 but may also require the applying entity to provide additional data  
22 and information as necessary.

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

7           F. Except as otherwise provided by subsection G of this  
8 section, for applications submitted on and after ~~the effective date~~  
9 ~~of this act~~ June 4, 2003, in order to qualify to receive incentive  
10 payments as authorized by the Oklahoma Quality Jobs Program Act, in  
11 addition to other qualifications specified herein, an establishment  
12 shall be required to pay new direct jobs an average annualized wage  
13 which equals or exceeds:

14           1. One hundred ten percent (110%) of the average county wage as  
15 determined by the Oklahoma State Data Center based on the most  
16 recent U.S. Department of Commerce data for the county in which the  
17 new direct jobs are located. For purposes of this paragraph,  
18 healthcare premiums paid by the applicant for individuals in new  
19 direct jobs shall be included in the annualized wage; or

20           2. One hundred percent (100%) of the average county wage as  
21 that percentage is determined by the Oklahoma State Data Center  
22 based upon the most recent U.S. Department of Commerce data for the  
23 county in which the new jobs are located. For purposes of this

1 paragraph, healthcare premiums paid by the applicant for individuals  
2 in new direct jobs shall not be included in the annualized wage.

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

9 G. 1. As used in this subsection, "opportunity zone" means one  
10 or more census tracts in which, according to the most recent federal  
11 decennial census, at least thirty percent (30%) of the residents  
12 have annual gross household incomes from all sources below the  
13 poverty guidelines established by the U.S. Department of Health and  
14 Human Services. An establishment which is otherwise qualified to  
15 receive incentive payments and which locates its principal business  
16 activity in an opportunity zone shall not be subject to the  
17 requirements of subsection F of this section.

18 2. As used in this subsection:

19 a. "negative economic event" means:

20 (1) a man-made disaster or natural disaster as  
21 defined in Section 683.3 of Title 63 of the  
22 Oklahoma Statutes, resulting in the loss of a

1 significant number of jobs within a particular  
2 county of this state, or

3 (2) an economic circumstance in which a significant  
4 number of jobs within a particular county of this  
5 state have been lost due to an establishment  
6 changing its structure, consolidating with  
7 another establishment, closing or moving all or  
8 part of its operations out of this state, and

9 b. "significant number of jobs" means full-time-  
10 equivalent employment in a county equal to or in  
11 excess of ten percent (10%) of the total amount of  
12 full-time-equivalent employment in that county for the  
13 calendar year, or most recent twelve-month period in  
14 which employment is measured, preceding the event.

15 An establishment which is otherwise qualified to receive  
16 incentive payments and which locates in a county in which a negative  
17 economic event has occurred within the eighteen-month period  
18 preceding the start date shall not be subject to the requirements of  
19 subsection F of this section; provided, an establishment shall not  
20 be eligible to receive incentive payments based upon a negative  
21 economic event with respect to jobs that are transferred from one  
22 county of this state to another.

1 H. The Department shall determine if the applicant is qualified  
2 to receive incentive payments.

3 I. If the applicant is determined to be qualified by the  
4 Department and is not subject to the provisions of subparagraph d of  
5 paragraph 6 of subsection A of Section 3603 of this title, the  
6 Department shall conduct a cost/benefit analysis to determine the  
7 estimated net direct state benefits and the net benefit rate  
8 applicable for a ten-year period and to estimate the amount of gross  
9 payroll for a ten-year period. In conducting such cost/benefit  
10 analysis, the Department shall consider quantitative factors, such  
11 as the anticipated level of new tax revenues to the state along with  
12 the added cost to the state of providing services, and such other  
13 criteria as deemed appropriate by the Department. In no event shall  
14 incentive payments, cumulatively, exceed the estimated net direct  
15 state benefits, except for applicants subject to the provisions of  
16 subparagraph d of paragraph 6 of subsection A of Section 3603 of  
17 this title.

18 J. Upon approval of such an application, the Department shall  
19 notify the ~~Oklahoma~~ Tax Commission and shall provide it with a copy  
20 of the application and the results of the cost/benefit analysis.  
21 The Tax Commission may require the qualified establishment to submit  
22 such additional information as may be necessary to administer the  
23 provisions of the Oklahoma Quality Jobs Program Act. The approved

1 establishment shall report to the Tax Commission periodically to  
2 show its continued eligibility for incentive payments, as provided  
3 in Section 3606 of this title. The establishment may be audited by  
4 the Tax Commission to verify such eligibility. Once the  
5 establishment is approved, an agreement shall be deemed to exist  
6 between the establishment and the State of Oklahoma, requiring the  
7 continued incentive payment to be made as long as the establishment  
8 retains its eligibility as defined in and established pursuant to  
9 this section and Sections 3603 and 3606 of this title and within the  
10 limitations contained in the Oklahoma Quality Jobs Program Act,  
11 which existed at the time of such approval.

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

1 establishment pursuant to the provisions of this section. If such  
2 claim is approved, the amount of the payment to the establishment  
3 made pursuant to the provisions of Section 3606 of this title shall  
4 be reduced by the amount of the approved claim by the municipality  
5 and the Tax Commission shall issue a warrant to the municipality in  
6 the amount of the approved claim in the same manner as warrants are  
7 issued to qualifying establishments.

8 SECTION 2. This act shall become effective July 1, 2006.

9 SECTION 3. It being immediately necessary for the preservation  
10 of the public peace, health and safety, an emergency is hereby  
11 declared to exist, by reason whereof this act shall take effect and  
12 be in full force from and after its passage and approval.

13 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-21-06 - DO PASS,  
14 As Amended and Coauthored.