

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 SENATE BILL 759

By: Bass

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5
6 AS INTRODUCED

7 An Act relating to military bases and facilities;
8 creating the Military Base Protection and Expansion
9 Incentive Act of 2007; providing short title; stating
10 legislative findings and intent; requiring Oklahoma
11 Department of Commerce and Oklahoma Development
12 Finance Authority to create certain programs;
13 providing that bonds not be considered general
14 obligations; creating Military Base Protection and
15 Expansion Bond Fund; providing for deposits and
16 expenditures; specifying duties of Department of
17 Commerce, Oklahoma Employment Security Commission,
18 Oklahoma Development Finance Authority and Oklahoma
19 Tax Commission; limiting liability of state to make
20 certain payments; amending 68 O.S. 2001, Section
21 3603, as last amended by Section 74, Chapter 16,
22 O.S.L. 2006 (74 O.S. Supp. 2006, Section 3603), which
23 relates to the Oklahoma Quality Jobs Program Act;
24 modifying definition; amending Section 3, Chapter
299, O.S.L. 2002 (68 O.S. Supp. 2006, Section 3653),
which relates to the Oklahoma Quality Jobs Incentive
Leverage Act; modifying definition; amending Section
1, Chapter 41, 2nd Extraordinary Session, O.S.L. 2006
(62 O.S. Supp. 2006, Section 48), which relates to
the Oklahoma Opportunity Fund; modifying purposes for
which expenditures may be proposed; repealing Section
2, Chapter 234, O.S.L. 2006, which relates to
assistance to military facilities; providing for
codification; providing an effective date; and
declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 5401.1 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. This act shall be known and may be cited as the "Military
5 Base Protection and Expansion Incentive Act of 2007".

6 B. The Legislature finds that:

7 1. The economic benefits provided to local communities by
8 established military bases and facilities are significant;

9 2. The benefits to the community extend beyond the obvious
10 economic advantages, such as the creation of jobs, population growth
11 and fiscal prosperity, to encompass intangible factors such as
12 community pride, a sense of participation in our national defense
13 and a connection to the responsibility and pageantry of military
14 service; and

15 3. It is in the best interest of the State of Oklahoma to
16 provide many and varied forms of assistance to both employers and
17 local communities to ensure the continued location and expansion of
18 such bases and facilities in our state.

19 C. It is the intent of the Legislature to create a
20 comprehensive package of incentives to protect and retain
21 established military bases and facilities and to attract and promote
22 additional employment at such bases and facilities, including but
23 not limited to:

24

1 1. A program pursuant to which local communities may apply to
2 the State of Oklahoma for matching grants or low-interest loans, for
3 critical infrastructure improvements, encroachment issues,
4 transportation and access needs, utilities, communications, housing,
5 environment and security in order to prevent adverse realignment or
6 military base closure;

7 2. A program to assist local communities, under which the
8 Oklahoma Development Finance Authority will issue bonds to finance
9 public improvements that directly result in the creation of new jobs
10 in this state at or in connection with an established military base;
11 and

12 3. Expansion of the Oklahoma Quality Jobs Program and the
13 Oklahoma Quality Jobs Incentive Leverage Act to include employment
14 created at established military bases and facilities.

15 D. The Oklahoma Department of Commerce is hereby directed to
16 create the program as described in paragraph 1 of subsection C of
17 this section and establish priorities for the use of funds
18 appropriated for purposes of this act.

19 E. The Oklahoma Development Finance Authority is hereby
20 directed to create the program as described in paragraph 2 of
21 subsection C of this section, and to issue bonds or other
22 indebtedness pursuant to such program, to be repaid with funds
23 deposited to the Military Base Protection and Expansion Bond Fund
24 created in subsection G of this section.

1 F. No obligation issued by the Authority pursuant to this act
2 shall be considered a general obligation of the State of Oklahoma
3 for any purpose. This fact shall be plainly stated on the face of
4 each bond.

5 G. There is hereby created within the State Treasury a special
6 fund for the Oklahoma Development Finance Authority to be designated
7 the "Military Base Protection and Expansion Bond Fund". All amounts
8 deposited into the fund shall be used and expended by the Oklahoma
9 Development Finance Authority solely for the purposes and in the
10 amounts authorized by the Military Base Protection and Expansion
11 Incentive Act of 2007. The Oklahoma Development Finance Authority
12 is hereby specifically authorized and directed to use the monies
13 transferred from the Military Base Protection and Expansion Bond
14 Fund for the payment of principal, interest and other costs
15 associated with the issuance of obligations pursuant to the
16 provisions of this act. The Oklahoma Development Finance Authority
17 shall establish separate accounts within the Military Base
18 Protection and Expansion Bond Fund as may be required to separately
19 record transactions involving each community that applies to
20 participate in the program and to provide for the deposit of monies
21 apportioned to the fund pursuant to subsection H of this section.

22 H. When a local community applies to the Authority to
23 participate in the program to finance public improvements which have
24 already resulted in the creation of new direct jobs in this state at

1 or in connection with an established military base, the Oklahoma
2 Department of Commerce shall conduct a cost/benefit analysis to
3 determine the estimated net direct state benefits and the net
4 benefit rate and the Oklahoma Employment Security Commission shall
5 verify the actual gross payroll of new direct jobs, as such terms
6 are defined in the Military Base Protection and Expansion Incentive
7 Act of 2007. The Oklahoma Tax Commission is hereby directed to
8 withhold a portion of the taxes levied and collected pursuant to
9 Section 2355 of Title 68 of the Oklahoma Statutes for deposit into
10 the fund created by subsection G of this act. The amount deposited
11 for each community shall equal the amount determined by multiplying
12 the net benefit provided by the Department of Commerce by the gross
13 payroll as determined by the Oklahoma Employment Security
14 Commission.

15 I. All monies transferred to the Military Base Protection and
16 Expansion Bond Fund shall be used for the payment of principal and
17 interest or other costs associated with the issuance of obligations
18 by the Oklahoma Development Finance Authority pursuant to the
19 provisions of this act. Not later than July 1 of each year, the
20 Authority shall certify to the Oklahoma Department of Commerce and
21 the Oklahoma Tax Commission the amount which will be required for
22 payment of principal, interest, and other costs associated with the
23 issuance of such obligations for the succeeding six-month period.

24

1 SECTION 2. AMENDATORY 68 O.S. 2001, Section 3603, as
2 last amended by Section 74, Chapter 16, O.S.L. 2006 (74 O.S. Supp.
3 2006, Section 3603), is amended to read as follows:

4 Section 3603. A. As used in Section 3601 et seq. of this
5 title:

6 1. a. "Basic industry" means:

7 (1) those manufacturing activities defined or
8 classified in the NAICS Manual under Industry
9 Sector Nos. 31, 32 and 33, Industry Group No.
10 5111 or Industry No. 11331,

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

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

18 (b) the exempt wholesale generator facility
19 consumes from sources located within the
20 state at least ninety percent (90%) of the
21 total energy used to produce the electrical
22 output which qualifies for the specialized
23 treatment provided by the Energy Policy Act
24 of 1992, P.L. 102-486, 106 Stat. 2776, as

1 amended, and federal regulations adopted
2 pursuant thereto,

3 (c) the exempt wholesale generator facility
4 sells to purchasers located outside the
5 state for consumption in activities located
6 outside the state at least ninety percent
7 (90%) of the total electrical energy output
8 which qualifies for the specialized
9 treatment provided by the Energy Policy Act
10 of 1992, P.L. 102-486, 106 Stat. 2776, as
11 amended, and federal regulations adopted
12 pursuant thereto, and

13 (d) the facility is constructed on or after July
14 1, 1996,

15 (3) those administrative and facilities support
16 service activities defined or classified in the
17 NAICS Manual under Industry Group Nos. 5611 and
18 5612, Industry Nos. 51821, 52232, 56142 and 54191
19 or U.S. Industry Nos. 524291 and 551114,

20 (4) those professional, scientific and technical
21 service activities defined or classified in the
22 NAICS Manual under U.S. Industry Nos. 541710 and
23 541380,
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1 (5) warehouses which serve as distribution centers
2 for retail or wholesale businesses, if forty
3 percent (40%) of the inventory processed through
4 such warehouse is shipped out-of-state,

5 (6) those adjustment and collection service
6 activities defined or classified in the NAICS
7 Manual under U.S. Industry No. 561440, if
8 seventy-five percent (75%) of the loans to be
9 serviced were made by out-of-state debtors,

10 (7) (a) those air transportation activities defined
11 or classified in the NAICS Manual under
12 Industry Group No. 4811, if the following
13 facilities are located in this state:

14 (i) the corporate headquarters of an
15 establishment classified therein, and

16 (ii) a facility or facilities at which
17 reservations for transportation
18 provided by such an establishment are
19 processed, whether such services are
20 performed by employees of the
21 establishment, by employees of a
22 subsidiary of or other entity
23 affiliated with the establishment or by
24 employees of an entity with whom the

1 establishment has contracted for the
2 performance of such services; provided,
3 this provision shall not disqualify an
4 establishment which uses an out-of-
5 state entity or employees for some
6 reservations services, or

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

21 (8) flight training services activities defined or
22 classified in the NAICS Manual under U.S.
23 Industry Group No. 611512, which for purposes of
24 this act shall include new direct jobs for which

1 gross payroll existed on or after January 1,
2 2003, as identified in the NAICS Manual,

3 (9) the following, if an establishment classified
4 therein has or will have within one (1) year
5 sales of at least seventy-five percent (75%) of
6 its total sales, as determined by the Incentive
7 Approval Committee pursuant to the provisions of
8 subsection B of this section, to out-of-state
9 customers or buyers, to in-state customers or
10 buyers if the product or service is resold by the
11 purchaser to an out-of-state customer or buyer
12 for ultimate use, or to the federal government:

13 (a) those transportation and warehousing
14 activities defined or classified in the
15 NAICS Manual under Industry Subsector No.
16 493, if not otherwise listed in this
17 paragraph, Industry Subsector No. 484 and
18 Industry Group Nos. 4884 through 4889,

19 (b) those passenger transportation activities
20 defined or classified in the NAICS Manual
21 under Industry Nos. 561510, 561520 and
22 561599,
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- 1 (c) those freight or cargo transportation
2 activities defined or classified in the
3 NAICS Manual under Industry No. 541614,
- 4 (d) those insurance activities defined or
5 classified in the NAICS Manual under
6 Industry Group No. 5241,
- 7 (e) those mailing, reproduction, commercial art
8 and photography and stenographic service
9 activities defined or classified in the
10 NAICS Manual under U.S. Industry Nos.
11 541430, 541860, 541922, 561439 and 561492,
- 12 (f) those services to dwellings and other
13 buildings, as defined or classified in the
14 NAICS Manual under Industry Group No. 5617,
15 excluding U.S. Industry No. 561730,
- 16 (g) those equipment rental and leasing
17 activities defined or classified in the
18 NAICS Manual under Industry Group Nos. 5323
19 and 5324,
- 20 (h) those employment services defined or
21 classified in the NAICS Manual under
22 Industry Group No. 5613,
- 23 (i) those information technology and other
24 computer-related service activities defined

1 or classified in the NAICS Manual under
2 Industry Group Nos. 5112, 5182, 5191 and
3 5415,

4 (j) those business support service activities
5 defined or classified in the NAICS Manual
6 under U.S. Industry Nos. 561410 through
7 561439, Industry Group No. 5616 and Industry
8 No. 51911,

9 (k) those medical and diagnostic laboratory
10 activities defined or classified in the
11 NAICS Manual under Industry Group No. 6215,

12 (l) those professional, scientific and technical
13 service activities defined or classified in
14 the NAICS Manual under Industry Group Nos.
15 5412, 5414, 5415, 5416 and 5417 and Industry
16 Nos. 54131, 54133, 54136, 54137 and 54182,
17 if not otherwise listed in this paragraph,

18 (m) those communication service activities
19 defined or classified in the NAICS Manual
20 under Industry Nos. 51741 and 51791,

21 (n) those refuse systems activities defined or
22 classified in the NAICS Manual under
23 Industry Group No. 5622, provided that the
24 establishment is primarily engaged in the

1 capture and distribution of methane gas
2 produced within a landfill,

3 (o) general wholesale distribution of groceries,
4 defined or classified in the NAICS Manual
5 under Industry Group Nos. 4244 and 4245, and

6 (p) those activities relating to processing of
7 insurance claims, defined or classified in
8 the NAICS Manual under U.S. Industry Nos.
9 524210 and 524292; provided, activities
10 described in U.S. Industry Nos. 524210 and
11 524292 in the NAICS Manual other than
12 processing of insurance claims shall not be
13 included for purposes of this subdivision,

14 (10) those activities related to extraction of crude
15 petroleum and natural gas defined or classified in
16 the NAICS Manual under Industry Group No. 2111,
17 subject to the limitations provided in paragraph 2
18 of this subsection and paragraph 3 of subsection B
19 of this section, ~~or~~

20 (11) those activities performed by the federal civilian
21 workforce at a facility of the Federal Aviation
22 Administration located in this state if the
23 Director of the Department of Commerce determines
24 or is notified that the federal government is

1 soliciting proposals or otherwise inviting states
2 to compete for additional federal civilian
3 employment or expansion of federal civilian
4 employment at such facilities, or

5 (12) those activities related to the Armed Forces of
6 the United States, including the National Guard,
7 primarily engaged in national security and related
8 activities, defined or classified in the NAICS
9 Manual under Industry No. 928110.

10 b. An establishment described in subparagraph a of this
11 paragraph shall not be considered to be engaged in a
12 basic industry unless it offers, or will offer within
13 one hundred eighty (180) days of the date it receives
14 the first incentive payment pursuant to the provisions
15 of Section 3601 et seq. of this title, a basic health
16 benefits plan to the individuals it employs in new
17 direct jobs in this state which is determined by the
18 Oklahoma Department of Commerce to consist of the
19 following elements or elements substantially
20 equivalent thereto:

- 21 (1) not less than fifty percent (50%) of the premium
22 shall be paid by the employer,
23 (2) coverage for basic hospital care,
24 (3) coverage for physician care,

- 1 (4) coverage for mental health care,
- 2 (5) coverage for substance abuse treatment,
- 3 (6) coverage for prescription drugs, and
- 4 (7) coverage for prenatal care;

5 2. "New direct job" means full-time-equivalent employment in
6 this state in an establishment which has qualified to receive an
7 incentive payment pursuant to the provisions of Section 3601 et seq.
8 of this title which employment did not exist in this state prior to
9 the date of approval by the Department of the application of the
10 establishment pursuant to the provisions of Section 3604 of this
11 title. "New direct job" shall include full-time-equivalent
12 employment in this state of employees who are employed by an
13 employment agency or similar entity other than the establishment
14 which has qualified to receive an incentive payment and who are
15 leased or otherwise provided under contract to the qualified
16 establishment, if such job did not exist in this state prior to the
17 date of approval by the Department of the application of the
18 establishment. A job shall be deemed to exist in this state prior
19 to approval of an application if the activities and functions for
20 which the particular job exists have been ongoing at any time within
21 six (6) months prior to such approval. With respect to
22 establishments defined in division (10) of subparagraph a of
23 paragraph 1 of this subsection, new direct jobs shall be limited to
24 those jobs directly comprising the corporate headquarters of or

1 directly relating to administrative, financial, engineering,
2 surveying, geological or geophysical services performed by the
3 establishment. Under no circumstances shall employment relating to
4 drilling or field services be considered new direct jobs;

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

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

- 11 a. the costs of education of new state resident children,
- 12 b. the costs of public health, public safety and
13 transportation services to be provided to new state
14 residents,
- 15 c. the costs of other state services to be provided to
16 new state residents, and
- 17 d. the costs of other state services;

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

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

- 22 a. except as otherwise provided in this paragraph, the
23 net benefit rate may be variable and shall not exceed
24 five percent (5%),

1 b. the net benefit rate shall not exceed six percent (6%)
2 in connection with an establishment which is owned and
3 operated by an entity which has been awarded a United
4 States Department of Defense contract for which:

5 (1) bids were solicited and accepted by the United
6 States Department of Defense from facilities
7 located outside this state,

8 (2) the term is or is renewable for not less than
9 twenty (20) years, and

10 (3) the average annual salary, excluding benefits
11 which are not subject to Oklahoma income taxes,
12 for new direct jobs created as a direct result of
13 the awarding of the contract is projected by the
14 Department of Commerce to equal or exceed Forty
15 Thousand Dollars (\$40,000.00) within three (3)
16 years of the date of the first incentive payment,

17 c. except as otherwise provided in subparagraph d of this
18 paragraph, in no event shall incentive payments,
19 cumulatively, exceed the estimated net direct state
20 benefits,

21 d. the net benefit rate shall be five percent (5%) for an
22 establishment locating:
23
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1 (1) in an opportunity zone located in a high-
2 employment county, as such terms are defined in
3 subsection G of Section 3604 of this title, or

4 (2) in a county in which:

5 (a) the per capita personal income, as
6 determined by the Department, is eighty-five
7 percent (85%) or less of the statewide
8 average per capita personal income,

9 (b) the population has decreased over the
10 previous ten (10) years, as determined by
11 the State Data Center based on the most
12 recent U.S. Department of Commerce data, or

13 (c) the unemployment rate exceeds the lesser of
14 five percent (5%) or two percentage points
15 above the state average unemployment rate as
16 certified by the Oklahoma Employment
17 Security Commission, and

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

20 (1) is, as of the date of application, receiving
21 incentive payments pursuant to the Oklahoma
22 Quality Jobs Program Act and has been receiving
23 such payments for at least one (1) year prior to
24 the date of application, and

1 (2) expands its operations in this state by creating
2 additional new direct jobs which pay average
3 annualized wages which equal or exceed one
4 hundred fifty percent (150%) of the average
5 annualized wages of new direct jobs on which
6 incentive payments were received during the
7 preceding calendar year.

8 Incentive payments made pursuant to the provisions of this
9 subparagraph shall be based upon payroll associated with such new
10 direct jobs; provided, the establishment may apply for payments to
11 begin on a date certain specified in the application, which shall
12 not be more than twenty-four (24) months from the date the
13 application is submitted to the Department. For purposes of this
14 subparagraph, the amount of health insurance premiums or other
15 benefits paid by the establishment shall not be included for
16 purposes of computation of the average annualized wage;

17 7. "Gross payroll" means wages, as defined in Section 2385.1 of
18 this title for new direct jobs;

19 8. a. "Establishment" means any business or governmental
20 entity, no matter what legal form, including, but not
21 limited to, a sole proprietorship; partnership;
22 limited liability company; corporation or combination
23 of corporations which have a central parent
24 corporation which makes corporate management decisions

1 such as those involving consolidation, acquisition,
2 merger or expansion; federal agency; political
3 subdivision of the State of Oklahoma; or trust
4 authority; provided, distinct, identifiable subunits
5 of such entities may be determined to be an
6 establishment, for all purposes of Section 3601 et
7 seq. of this title, by the Department subject to the
8 following conditions:

- 9 (1) the entity must have a minimum payroll of Two
10 Million Five Hundred Thousand Dollars
11 (\$2,500,000.00) and the subunit must also have or
12 will have a minimum payroll of Two Million Five
13 Hundred Thousand Dollars (\$2,500,000.00),
- 14 (2) the subunit is engaged in an activity or service
15 or produces a product which is demonstratively
16 independent and separate from the entity's other
17 activities, services or products and could be
18 conducted or produced in the absence of any other
19 activity, service or production of the entity,
- 20 (3) has an accounting system capable of tracking or
21 facilitating an audit of the subunit's payroll,
22 expenses, revenue and production. Limited
23 interunit overlap of administrative and
24 purchasing functions shall not disqualify a

1 subunit from consideration as an establishment by
2 the Department,

3 (4) the entity has not previously had a subunit
4 determined to be an establishment pursuant to
5 this section; provided, the restriction set forth
6 in this division shall not apply to subunits
7 which qualify pursuant to the provisions of
8 subparagraph b of paragraph 6 of this subsection,
9 and

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

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

22 9. "NAICS Manual" means any manual, book or other publication
23 containing the North American Industry Classification System, United
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1 States, 1997, promulgated by the Office of Management and Budget of
2 the United States of America, or the latest revised edition;

3 10. "SIC Manual" means the 1987 revision to the Standard
4 Industrial Classification Manual, promulgated by the Office of
5 Management and Budget of the United States of America; and

6 11. "Start date" means the date on which an establishment may
7 begin accruing benefits for the creation of new direct jobs, which
8 date shall be determined by the Department.

9 B. The Incentive Approval Committee is hereby created and shall
10 consist of the Director of State Finance, the Director of the
11 Department and one member of the Oklahoma Tax Commission appointed
12 by the Tax Commission. It shall be the duty of the Committee to
13 determine:

14 1. Upon initial application on a form approved by the
15 Committee, if an establishment is engaged in a basic industry as
16 defined in subdivision (b) of division (7) or in subdivisions (a)
17 through (p) of division (9) of subparagraph a of paragraph 1 of
18 subsection A of this section or as otherwise provided by subsection
19 C of this section;

20 2. If an establishment would have been defined as a "basic
21 industry" prior to the amendments to this section to convert from
22 SIC Codes to NAICS Codes. If the Committee so determines, the
23 establishment shall be considered as a "basic industry" for purposes
24 of the Oklahoma Quality Jobs Program Act; and

1 3. If employees of an establishment as defined in division (10)
2 of subparagraph a of paragraph 1 of subsection A of this section
3 meet the requirements to be considered employed in new direct jobs
4 as specified in paragraph 2 of subsection A of this section.

5 C. For an establishment defined as a "basic industry" pursuant
6 to division (4) of subparagraph a of paragraph 1 of subsection A of
7 this section, the Incentive Approval Committee shall consist of the
8 members provided by subsection B of this section and the President
9 of the Oklahoma Center for the Advancement of Science and
10 Technology.

11 SECTION 3. AMENDATORY Section 3, Chapter 299, O.S.L.
12 2002 (68 O.S. Supp. 2006, Section 3653), is amended to read as
13 follows:

14 Section 3653. As used in ~~this act~~ the Oklahoma Quality Jobs
15 Incentive Leverage Act:

16 1. "Establishment" means a business that:

17 a. has at least One Hundred Fifteen Million Dollars
18 (\$115,000,000.00) in annual gross compensation paid
19 with respect to jobs located in Oklahoma according to
20 Oklahoma Employment Security records and company
21 reports for the three (3) years prior to the
22 irrevocable election filing date provided by Section &
23 3658 of this ~~act~~ title,

24

- 1 b. has an average salary of at least Forty Thousand
2 Dollars (\$40,000.00) paid to employees as of the
3 irrevocable election filing date provided by Section &
4 3658 of this ~~act~~ title,
- 5 c. intends to add substantial gross compensation, as
6 defined below, with respect to full-time-equivalent
7 employment located in Oklahoma within three (3) years
8 of filing an irrevocable election with the Oklahoma
9 Department of Commerce pursuant to the provisions of
10 subsection A of Section & 3658 of this ~~act~~ title,
- 11 d. has at least Two Hundred Million Dollars
12 (\$200,000,000.00) total investment in Oklahoma,
- 13 e. intends to add investment for modernization and
14 retooling of a facility located in the state of at
15 least Fifty Million Dollars (\$50,000,000.00) but for
16 purposes of this act not in excess of Two Hundred
17 Fifty Million Dollars (\$250,000,000.00) within five
18 (5) years of filing an irrevocable election with the
19 Oklahoma Department of Commerce pursuant to the
20 provisions of subsection A of Section & 3658 of this
21 ~~act~~ title,
- 22 f. has and maintains at least one thousand five hundred
23 fifty (1,550) full-time employees in the state,
24

1 g. is described by Industry Number 3011, Industry Group
2 Number 301, Major Group 30 of the Standard Industrial
3 Classification Manual (SIC), latest revision, or
4 related to the Armed Forces of the United States,
5 including the National Guard, primarily engaged in
6 national security and related activities, defined or
7 classified in the NAICS Manual under Industry No.
8 928110, and

9 h. for an establishment qualifying for proceeds pursuant
10 to paragraph 1 of subsection B of Section ~~4~~ 3654 of
11 this ~~act~~ title and, as of the date the irrevocable
12 election authorized by Section ~~8~~ 3658 of this ~~act~~
13 title is filed, has received or will receive funds as
14 a result of a voter-approved economic development
15 incentive derived from a tax levy:

16 (1) by a county or municipality, the population of
17 such county or the population of the county in
18 which such municipality is located shall not
19 exceed five hundred thousand (500,000) persons,
20 according to the most recent federal Decennial
21 Census, and

22 (2) with projected revenues for the county or
23 municipality during the period of the tax levy
24 equal to or greater than Five Million Dollars

1 (\$5,000,000.00) as certified by the establishment
2 to the Oklahoma Department of Commerce and an
3 amount committed for the direct benefit of the
4 establishment equal to or greater than thirteen
5 and five-tenths percent (13.5%) of the proceeds
6 from the obligations issued pursuant to Section 4
7 3654 of this ~~act~~ title to which the establishment
8 is entitled;

9 2. "Gross compensation" means wages, as defined in Section
10 2385.1 of Title 68 of the Oklahoma Statutes, and benefits paid on
11 behalf of employees receiving wages; and

12 3. "Substantial gross compensation" means annualized
13 compensation of Four Million Dollars (\$4,000,000.00) or more within
14 three (3) years of filing the irrevocable election with the Oklahoma
15 Department of Commerce pursuant to Section ~~§~~ 3658 of this ~~act~~ title.

16 SECTION 4. AMENDATORY Section 1, Chapter 41, 2nd
17 Extraordinary Session, O.S.L. 2006 (62 O.S. Supp. 2006, Section 48),
18 is amended to read as follows:

19 Section 48. A. There is hereby created in the State Treasury a
20 revolving fund for the Oklahoma Department of Commerce to be
21 designated the "Oklahoma Opportunity Fund". The fund shall be a
22 continuing fund, not subject to fiscal year limitations and shall
23 consist of:
24

1 1. All monies apportioned or allocated to the fund pursuant to
2 law;

3 2. Any amounts appropriated by the Legislature to the fund;

4 3. Interest earned on the investment of money in the fund; and

5 4. Gifts, grants, and other donations received for the fund.

6 B. All monies accruing to the credit of the fund are hereby
7 appropriated and may be budgeted and expended by the Governor for

8 the purposes of economic development and related infrastructure

9 development, subject to the unanimous approval of the Contingency

10 Review Board pursuant to subsection E of this section. Expenditures

11 from the fund shall be made upon warrants issued by the State

12 Treasurer against claims filed as prescribed by law with the

13 Director of State Finance for approval and payment.

14 C. Expenditures from the Oklahoma Opportunity Fund shall be

15 proposed by the Director of the Oklahoma Department of Commerce.

16 The Director of the Oklahoma Department of Commerce shall only

17 propose expenditures that the Director determines are expected to

18 result in a substantial economic benefit to the state through any of

19 the following:

20 1. The creation of new jobs which offer a basic health benefit
21 plan, as defined in the Oklahoma Quality Jobs Program Act;

22 2. The maintenance of existing jobs which are at risk for
23 termination;

24

1 3. Investment in new real property, plant or equipment or in
2 the improvement or retooling of existing plant or equipment; ~~or~~

3 4. Additional revenues in either ad valorem, income or sales
4 and use taxes; or

5 5. The protection and retention of established military bases
6 and facilities and the attraction and promotion of additional
7 employment at such bases and facilities.

8 D. The Oklahoma Department of Commerce shall develop rules for
9 the process of reviewing proposed expenditures from the Oklahoma
10 Opportunity Fund and for determination of whether or not proposed
11 expenditures meet the criteria identified in subsection C of this
12 section. Criteria shall include requirements for economic impact,
13 local participation in the project and average wage thresholds.

14 E. No expenditure shall be made from the Oklahoma Opportunity
15 Fund unless such expenditure has been unanimously approved by the
16 Contingency Review Board.

17 F. The Oklahoma Department of Commerce shall administer the
18 Oklahoma Opportunity Fund. The Governor may, on behalf of this
19 state and with the express approval of the Contingency Review Board,
20 award monies by entering into a written agreement.

21 G. Before awarding any monies pursuant to subsection F of this
22 section, the Governor shall enter into a written agreement with the
23 entity to be awarded the money specifying that:

24

1 1. If any or all of the amount to be awarded is used to build a
2 capital improvement:

3 a. the state retains a lien or other interest in the
4 capital improvement in proportion to the amount
5 awarded by the written agreement for the capital
6 improvement, and

7 b. if the capital improvement is sold, the recipient of
8 the award shall:

9 (1) repay to the state the money awarded to pay for
10 the capital improvement, with interest at the
11 rate and according to the other terms provided by
12 the agreement, and

13 (2) share with the state a proportionate amount of
14 any profit realized from the sale; and

15 2. If, as of the date certain provided in the agreement, the
16 award recipient has not used monies awarded under this section for
17 the intended purposes, the recipient shall repay that amount and any
18 related interest to the state at the agreed rate and on the agreed
19 terms.

20 H. The Legislature finds that for profit entities, nonprofit
21 entities and state and local governmental entities that qualify for
22 funding pursuant to the provisions of this section are a source of
23 economic benefits for the state, its political subdivisions and its
24 residents that can only be achieved through the use of specialized

1 economic incentives. All expenditures from the Oklahoma Opportunity
2 Fund shall be deemed to be in furtherance of essential governmental
3 functions for public purposes as a method of promoting and
4 sustaining economic growth and activity within the State of
5 Oklahoma.

6 SECTION 5. REPEALER Section 2, Chapter 234, O.S.L. 2006,
7 is hereby repealed.

8 SECTION 6. This act shall become effective July 1, 2007.

9 SECTION 7. 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.

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