

1 ENGROSSED HOUSE AMENDMENT

TO

2 ENGROSSED SENATE BILL NO. 2124

By: Mazzei and Stanislawski  
of the Senate

3  
4 and

5 Hickman of the House

6  
7  
8 ( revenue and taxation - Oklahoma Quality Jobs

9 Program Act - updating references -

10 effective date )

11  
12  
13 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
14 entire bill and insert

15 "( revenue and taxation - Oklahoma Quality Jobs

16 Program Act - NAICS Codes - alternative energy -

17 solar energy - updating references -

18 effective date )

19  
20  
21 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

22 SECTION 1. AMENDATORY 68 O.S. 2001, Section 3603, as

23 last amended by Section 70 of Enrolled Senate Bill No. 2113 of the

24

1 2nd Session of the 52nd Oklahoma Legislature, is amended to read as  
2 follows:

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

4 1. a. "Basic industry" means:

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

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

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

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

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

11 (d) the facility is constructed on or after July  
12 1, 1996,

13 (3) those administrative and facilities support  
14 service activities defined or classified in the  
15 NAICS Manual under Industry Group Nos. 5611 and  
16 5612, Industry Nos. 51821, 519130, 52232, 56142  
17 and 54191 or U.S. Industry Nos. 524291 and  
18 551114, those other support activities for air  
19 transportation defined or classified in the NAICS  
20 Manual under Industry Group No. 488190, and those  
21 support, repair, and maintenance service  
22 activities for the wind industry defined or  
23 classified in the NAICS Manual under Industry  
24 Group No. 811310,

- 1 (4) those professional, scientific and technical  
2 service activities defined or classified in the  
3 NAICS Manual under U.S. Industry Nos. 541710 and  
4 541380,
- 5 (5) distribution centers for retail or wholesale  
6 businesses defined or classified in the NAICS  
7 Manual under Sector No. 42, if forty percent  
8 (40%) or more of the inventory processed through  
9 such warehouse is shipped out-of-state,
- 10 (6) those adjustment and collection service  
11 activities defined or classified in the NAICS  
12 Manual under U.S. Industry No. 561440, if  
13 seventy-five percent (75%) of the loans to be  
14 serviced were made by out-of-state debtors,
- 15 (7) (a) those air transportation activities defined  
16 or classified in the NAICS Manual under  
17 Industry Group No. 4811, if the following  
18 facilities are located in this state:
- 19 (i) the corporate headquarters of an  
20 establishment classified therein, and  
21 (ii) a facility or facilities at which  
22 reservations for transportation  
23 provided by such an establishment are  
24 processed, whether such services are

1 performed by employees of the  
2 establishment, by employees of a  
3 subsidiary of or other entity  
4 affiliated with the establishment or by  
5 employees of an entity with whom the  
6 establishment has contracted for the  
7 performance of such services; provided,  
8 this provision shall not disqualify an  
9 establishment which uses an out-of-  
10 state entity or employees for some  
11 reservations services, or

12 (b) those air transportation activities defined  
13 or classified in the NAICS Manual under  
14 Industry Group No. 4811, if an establishment  
15 classified therein has or will have within  
16 one (1) year sales of at least seventy-five  
17 percent (75%) of its total sales, as  
18 determined by the Incentive Approval  
19 Committee pursuant to the provisions of  
20 subsection B of this section, to out-of-  
21 state customers or buyers, to in-state  
22 customers or buyers if the product or  
23 service is resold by the purchaser to an  
24

1 out-of-state customer or buyer for ultimate  
2 use, or to the federal government,

3 (8) flight training services activities defined or  
4 classified in the NAICS Manual under U.S.

5 Industry Group No. 611512, which for purposes of  
6 Section 3601 et seq. of this title shall include  
7 new direct jobs for which gross payroll existed  
8 on or after January 1, 2003, as identified in the  
9 NAICS Manual,

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

20 (a) those transportation and warehousing  
21 activities defined or classified in the  
22 NAICS Manual under Industry Subsector No.  
23 493, if not otherwise listed in this  
24

1 paragraph, Industry Subsector No. 484 and  
2 Industry Group Nos. 4884 through 4889,

3 (b) those passenger transportation activities  
4 defined or classified in the NAICS Manual  
5 under Industry Nos. 561510, 561520 and  
6 561599,

7 (c) those freight or cargo transportation  
8 activities defined or classified in the  
9 NAICS Manual under Industry No. 541614,

10 (d) those insurance activities defined or  
11 classified in the NAICS Manual under  
12 Industry Group No. 5241,

13 (e) those mailing, reproduction, commercial art  
14 and photography and stenographic service  
15 activities defined or classified in the  
16 NAICS Manual under U.S. Industry Nos.  
17 541430, 541860, 541922, 561439 and 561492,

18 (f) those services to dwellings and other  
19 buildings, as defined or classified in the  
20 NAICS Manual under Industry Group No. 5617,  
21 excluding U.S. Industry No. 561730,

22 (g) those equipment rental and leasing  
23 activities defined or classified in the  
24

1 NAICS Manual under Industry Group Nos. 5323  
2 and 5324,

3 (h) those employment services defined or  
4 classified in the NAICS Manual under  
5 Industry Group No. 5613,

6 (i) those information technology and other  
7 computer-related service activities defined  
8 or classified in the NAICS Manual under  
9 Industry Group Nos. 5112, 5182, 5191 and  
10 5415,

11 (j) those business support service activities  
12 defined or classified in the NAICS Manual  
13 under U.S. Industry Nos. 561410 through  
14 561439, Industry Group No. 5616 and Industry  
15 No. 51911,

16 (k) those medical and diagnostic laboratory  
17 activities defined or classified in the  
18 NAICS Manual under Industry Group No. 6215,

19 (l) those professional, scientific and technical  
20 service activities defined or classified in  
21 the NAICS Manual under Industry Group Nos.  
22 5412, 5414, 5415, 5416 and 5417, Industry  
23 Nos. 54131, 54133, 54136, 54137 and 54182,  
24

1 and U.S. Industry No. 541990, if not  
2 otherwise listed in this paragraph,

3 (m) those communication service activities  
4 defined or classified in the NAICS Manual  
5 under Industry Nos. 51741 and 51791,

6 (n) those refuse systems activities defined or  
7 classified in the NAICS Manual under  
8 Industry Group No. 5622, provided that the  
9 establishment is primarily engaged in the  
10 capture and distribution of methane gas  
11 produced within a landfill,

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

15 (p) those activities relating to processing of  
16 insurance claims, defined or classified in  
17 the NAICS Manual under U.S. Industry Nos.  
18 524210 and 524292; provided, activities  
19 described in U.S. Industry Nos. 524210 and  
20 524292 in the NAICS Manual other than  
21 processing of insurance claims shall not be  
22 included for purposes of this subdivision,  
23  
24

1 (q) those agricultural activities classified in  
2 the NAICS Manual under U.S. Industry Nos.  
3 112120 and 112310, ~~and~~

4 (r) those professional organization activities  
5 classified in the NAICS Manual under U.S.  
6 Industry No. 813920,

7 (s) alternative energy structure construction  
8 classified in the NAICS Manual under U.S.  
9 Industry No. 237130,

10 (t) solar reflective coating application  
11 classified in the NAICS Manual under U.S.  
12 Industry No. 238160, and

13 (u) solar heating equipment installation  
14 classified in the NAICS Manual under U.S.  
15 Industry No. 238220;

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

22 (11) those activities performed by the federal  
23 civilian workforce at a facility of the Federal  
24 Aviation Administration located in this state if

1 the Director of the Department of Commerce  
2 determines or is notified that the federal  
3 government is soliciting proposals or otherwise  
4 inviting states to compete for additional federal  
5 civilian employment or expansion of federal  
6 civilian employment at such facilities,

7 (12) those activities defined or classified in the  
8 NAICS Manual under U.S. Industry No. 711211 (2007  
9 version), ~~or~~

10 (13) those real estate or brokerage activities  
11 classified in the NAICS Manual under U.S.  
12 Industry No. 53120 for which at least seventy-  
13 five percent (75%) of the establishment's  
14 revenues are attributed to out-of-state sales and  
15 at least seventy-five percent (75%) of the real  
16 estate transactions generating those revenues are  
17 attributed to real property located outside the  
18 State of Oklahoma, or

19 (14) those support activities for rail transportation  
20 and those support activities for water  
21 transportation defined or classified in the NAICS  
22 Manual under U.S. Industry Nos. 4882 and 4883.

23 b. An establishment described in subparagraph a of this  
24 paragraph shall not be considered to be engaged in a

1 basic industry unless it offers, or will offer within  
2 one hundred eighty (180) days of employment, a basic  
3 health benefits plan to the individuals it employs in  
4 new direct jobs in this state which is determined by  
5 the Oklahoma Department of Commerce to consist of the  
6 following elements or elements substantially  
7 equivalent thereto:

- 8 (1) not more than fifty percent (50%) of the premium  
9 shall be paid by the employee,
- 10 (2) coverage for basic hospital care,
- 11 (3) coverage for physician care,
- 12 (4) coverage for mental health care,
- 13 (5) coverage for substance abuse treatment,
- 14 (6) coverage for prescription drugs, and
- 15 (7) coverage for prenatal care;

16 2. "Change in control event" means the transfer to one or more  
17 unrelated establishments or unrelated persons, of either:

- 18 a. beneficial ownership of more than fifty percent (50%)  
19 in value and more than fifty percent (50%) in voting  
20 power of the outstanding equity securities of the  
21 transferred establishment, or
- 22 b. more than fifty percent (50%) in value of the assets  
23 of an establishment.

1 A transferor shall be treated as related to a transferee if more  
2 than fifty percent (50%) of the voting interests of the transferor  
3 and transferee are owned, directly or indirectly, by the other or  
4 are owned, directly or indirectly, by the same person or persons,  
5 unless such transferred establishment has an outstanding class of  
6 equity securities registered under Sections 12(b) or 15(d) of the  
7 Securities Exchange Act of 1934, as amended, in which event the  
8 transferor and transferee will be treated as unrelated; provided, an  
9 establishment applying for the Oklahoma Quality Jobs Program Act as  
10 a result of a change of control event is required to apply within  
11 one hundred eighty (180) days of the change in control event to  
12 qualify for consideration. An establishment entering the Oklahoma  
13 Quality Jobs Program Act as the result of a change of control event  
14 shall be required to maintain a level of new direct jobs as agreed  
15 to in its contract with the Department of Commerce and to pay new  
16 direct jobs an average annualized wage which equals or exceeds one  
17 hundred twenty-five percent (125%) of the average county wage as  
18 that percentage is determined by the Oklahoma State Data Center  
19 based upon the most recent U.S. Department of Commerce data for the  
20 county in which the new jobs are located. For purposes of this  
21 paragraph, healthcare premiums paid by the applicant for individuals  
22 in new direct jobs shall not be included in the annualized wage.  
23 Such establishment entering the Quality Jobs Program Act as the  
24 result of a change of control event shall be required to retain the

1 contracted average annualized wage and maintain the contracted  
2 maintenance level of new direct jobs numbers as certified by the  
3 Oklahoma Tax Commission. If the required average annualized wage or  
4 the required new direct jobs numbers do not equal or exceed such  
5 contracted level during any quarter, the quarterly incentive  
6 payments shall not be made and shall not be resumed until such time  
7 as such requirements are met. An establishment described in this  
8 paragraph shall be required to repay all incentive payments received  
9 under the Quality Jobs Program Act if the establishment is  
10 determined by the Oklahoma Tax Commission to no longer have business  
11 operations in the state within three (3) years from the beginning of  
12 the calendar quarter for which the first incentive payment claim is  
13 filed.

14 3. "New direct job":

15 a. means full-time-equivalent employment in this state in  
16 an establishment which has qualified to receive an  
17 incentive payment pursuant to the provisions of  
18 Section 3601 et seq. of this title which employment  
19 did not exist in this state prior to the date of  
20 approval by the Department of the application of the  
21 establishment pursuant to the provisions of Section  
22 3604 of this title and with respect to an  
23 establishment qualifying for incentive payments  
24 pursuant to division (12) of subparagraph a of

1 paragraph 1 of this subsection shall not include  
2 compensation paid to an employee or independent  
3 contractor for an athletic contest conducted in the  
4 state if the compensation is paid by an entity that  
5 does not have its principal place of business in the  
6 state or that does not own real or personal property  
7 having a market value of at least One Million Dollars  
8 (\$1,000,000.00) located in the state, and the  
9 employees or independent contractors of such entity  
10 are compensated to compete against the employees or  
11 independent contractors of an establishment that  
12 qualifies for incentive payments pursuant to division  
13 (12) of subparagraph a of paragraph 1 of this  
14 subsection and which is organized under Oklahoma law  
15 or that is lawfully registered to do business in the  
16 state and which does have its principal place of  
17 business located in the state and owns real or  
18 personal property having a market value of at least  
19 One Million Dollars (\$1,000,000.00) located in the  
20 state; provided, that if an application of an  
21 establishment is approved by the Department of  
22 Commerce after a change in control event and the  
23 Director of the Department of Commerce determines that  
24 the jobs located at such establishment are likely to

1 leave the state, "new direct job" shall include  
2 employment that existed in this state prior to the  
3 date of application which is retained in this state by  
4 the new establishment following a change in control  
5 event, if such job otherwise qualifies as a new direct  
6 job, and

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

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

7 4. "Estimated direct state benefits" means the tax revenues  
8 projected by the Department to accrue to the state as a result of  
9 new direct jobs;

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

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

20 6. "Estimated net direct state benefits" means the estimated  
21 direct state benefits less the estimated direct state costs;

22 7. "Net benefit rate" means the estimated net direct state  
23 benefits computed as a percentage of gross payroll; provided:

- 1           a.    except as otherwise provided in this paragraph, the  
2                    net benefit rate may be variable and shall not exceed  
3                    five percent (5%),
- 4           b.    the net benefit rate shall not exceed six percent (6%)  
5                    in connection with an establishment which is owned and  
6                    operated by an entity which has been awarded a United  
7                    States Department of Defense contract for which:
- 8                    (1)   bids were solicited and accepted by the United  
9                            States Department of Defense from facilities  
10                           located outside this state,
- 11                   (2)   the term is or is renewable for not less than  
12                           twenty (20) years, and
- 13                   (3)   the average annual salary, excluding benefits  
14                           which are not subject to Oklahoma income taxes,  
15                           for new direct jobs created as a direct result of  
16                           the awarding of the contract is projected by the  
17                           Department of Commerce to equal or exceed Forty  
18                           Thousand Dollars (\$40,000.00) within three (3)  
19                           years of the date of the first incentive payment,
- 20           c.    except as otherwise provided in subparagraph d of this  
21                    paragraph, in no event shall incentive payments,  
22                    cumulatively, exceed the estimated net direct state  
23                    benefits,
- 24

1 d. the net benefit rate shall be five percent (5%) for an  
2 establishment locating:

3 (1) in an opportunity zone located in a high-  
4 employment county, as such terms are defined in  
5 subsection G of Section 3604 of this title, or

6 (2) in a county in which:

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

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

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

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

22 (1) is, as of the date of application, receiving  
23 incentive payments pursuant to the Oklahoma  
24 Quality Jobs Program Act and has been receiving

1           such payments for at least one (1) year prior to  
2           the date of application, and  
3       (2) expands its operations in this state by creating  
4           additional new direct jobs which pay average  
5           annualized wages which equal or exceed one  
6           hundred fifty percent (150%) of the average  
7           annualized wages of new direct jobs on which  
8           incentive payments were received during the  
9           preceding calendar year, and

10       f. with respect to an establishment defined or classified  
11           in the NAICS Manual under U.S. Industry No. 711211  
12           (2007 version) or any establishment defined or  
13           classified in the NAICS Manual as a U.S. Industry  
14           Number which is not included within the definition of  
15           "basic industry" as such term is defined in this  
16           section on April 17, 2008, the net benefit rate shall  
17           not exceed the highest rate of income tax imposed upon  
18           the Oklahoma taxable income of individuals pursuant to  
19           subparagraph (g) or subparagraph (h), as applicable,  
20           of paragraph 1 and paragraph 2 of subsection B of  
21           Section 2355 of this title. Any change in such  
22           highest rate of individual income tax imposed pursuant  
23           to the provisions of Section 2355 of this title shall  
24           be applicable to the computation of incentive payments

1 to an establishment as described by this subparagraph  
2 and shall be effective for purposes of incentive  
3 payments based on payroll paid by such establishment  
4 on or after January 1 of any applicable year for which  
5 the net benefit rate is modified as required by this  
6 subparagraph.

7 Incentive payments made pursuant to the provisions of this  
8 subparagraph shall be based upon payroll associated with such new  
9 direct jobs. For purposes of this subparagraph, the amount of  
10 health insurance premiums or other benefits paid by the  
11 establishment shall not be included for purposes of computation of  
12 the average annualized wage;

13 8. "Gross payroll" means wages, as defined in Section 2385.1 of  
14 this title for new direct jobs;

15 9. a. "Establishment" means any business or governmental  
16 entity, no matter what legal form, including, but not  
17 limited to, a sole proprietorship; partnership;  
18 limited liability company; corporation or combination  
19 of corporations which have a central parent  
20 corporation which makes corporate management decisions  
21 such as those involving consolidation, acquisition,  
22 merger or expansion; federal agency; political  
23 subdivision of the State of Oklahoma; or trust  
24 authority; provided, distinct, identifiable subunits

1 of such entities may be determined to be an  
2 establishment, for all purposes of Section 3601 et  
3 seq. of this title, by the Department subject to the  
4 following conditions:

5 (1) within three (3) years of the first complete  
6 calendar quarter following the start date, the  
7 entity must have a minimum payroll of Two Million  
8 Five Hundred Thousand Dollars (\$2,500,000.00) and  
9 the subunit must also have or will have a minimum  
10 payroll of Two Million Five Hundred Thousand  
11 Dollars (\$2,500,000.00),

12 (2) the subunit is engaged in an activity or service  
13 or produces a product which is demonstratively  
14 independent and separate from the entity's other  
15 activities, services or products and could be  
16 conducted or produced in the absence of any other  
17 activity, service or production of the entity,

18 (3) has an accounting system capable of tracking or  
19 facilitating an audit of the subunit's payroll,  
20 expenses, revenue and production. Limited  
21 interunit overlap of administrative and  
22 purchasing functions shall not disqualify a  
23 subunit from consideration as an establishment by  
24 the Department,

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

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

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

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

1           11. "Qualified federal contract" means a contract between an  
2 agency or instrumentality of the United States government, including  
3 but not limited to the Department of Defense or any branch of the  
4 United States Armed Forces, but exclusive of any contract performed  
5 for the Federal Emergency Management Agency as a direct result of a  
6 natural disaster declared by the Governor or the President of the  
7 United States with respect to damage to property located in Oklahoma  
8 or loss of life or personal injury to persons in Oklahoma, and a  
9 lawfully recognized business entity, whether or not the business  
10 entity is organized under the laws of the State of Oklahoma or  
11 whether or not the principal place of business of the business  
12 entity is located within the State of Oklahoma, for the performance  
13 of services, including but not limited to testing, research,  
14 development, consulting or other services, if the contract involves  
15 the performance of such services performed on or after ~~the effective~~  
16 ~~date of this act~~ July 1, 2009, by the employees of the business  
17 entity within the State of Oklahoma or if the contract involves the  
18 performance of such services performed on or after ~~the effective~~  
19 ~~date of this act~~ July 1, 2009, by employees of a lawfully recognized  
20 business entity that is a subcontractor of the business entity with  
21 which the prime contract has been formed;

22           12. "Qualified federal contractor verifier" means a nonprofit  
23 entity organized under the laws of the State of Oklahoma, having an  
24 affiliation with a comprehensive university which is part of The

1 Oklahoma State System of Higher Education, and having the following  
2 characteristics:

3 a. established multiyear classified and unclassified  
4 indefinite-delivery/indefinite-quantity federal  
5 contract vehicles in excess of Fifty Million Dollars  
6 (\$50,000,000.00),

7 b. current capability to sponsor and maintain personnel  
8 security clearances and authorized by the federal  
9 government to handle and perform classified work up to  
10 the Top Secret Sensitive Compartmented Information  
11 levels,

12 c. at least one on-site federally certified Sensitive  
13 Compartmented Information Facility,

14 d. on-site secure mass data storage complex with the  
15 capability of isolating, segregating and protecting  
16 corporate proprietary and classified information,

17 e. trusted agent status by maintaining no ownership of,  
18 vested interest in, nor royalty production from any  
19 intellectual property,

20 f. at least one hundred thousand (100,000) square feet of  
21 configurable laboratory and support space,

22 g. the direct access to restricted air space through a  
23 formalized memorandum of agreement with the Department  
24 of Defense,

- 1           h.    at least five thousand (5,000) acres available for  
2                    outdoor testing and training facilities, and  
3           i.    the ability to house state-of-the-art surety  
4                    facilities, including chemical, biological,  
5                    radiological, explosives, electronics, and unmanned  
6                    systems laboratories and ranges;

7           13.   "SIC Manual" means the 1987 revision to the Standard  
8   Industrial Classification Manual, promulgated by the Office of  
9   Management and Budget of the United States of America;

10          14.   "Start date" means the date on which an establishment may  
11   begin accruing benefits for the creation of new direct jobs, which  
12   date shall be determined by the Department;

13          15.   "Effective date" means the date of approval of a contract  
14   under which incentive payments will be made pursuant to the Oklahoma  
15   Quality Jobs Program Act, which shall be the date the signed and  
16   accepted incentive contract is received by the Department; provided,  
17   an approved project may have a start date which is different from  
18   the effective date;

19          16.   "Total qualified labor hours" means the reimbursed payment  
20   amount for hours of work performed within the state by the employees  
21   of a qualified federal contractor or the employees of a  
22   subcontractor of a qualified federal contractor and which are  
23   required for the full performance of a qualified federal contract;  
24   and

1 17. "Qualified labor rate" means the fully reimbursed labor  
2 rate paid through a qualified federal contract for qualified labor  
3 hours to the qualified federal contractor or subcontractor.

4 B. The Incentive Approval Committee is hereby created and shall  
5 consist of the Director of the Office of State Finance, the Director  
6 of the Department and one member of the Oklahoma Tax Commission  
7 appointed by the Tax Commission, or a designee from each agency  
8 approved by such member. It shall be the duty of the Committee to  
9 determine:

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

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

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

