

1 STATE OF OKLAHOMA

2 2nd Session of the 52nd Legislature (2010)

3 CONFERENCE COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL 2124

By: Mazzei and Stanislawski of  
the Senate

6 and

7 Hickman of the House

8  
9 CONFERENCE COMMITTEE SUBSTITUTE

10 An Act relating to the Oklahoma Quality Jobs Program  
11 Act; amending 68 O.S. 2001, Section 3603, as last  
12 amended by Section 70 of Enrolled Senate Bill No.  
13 2113 of the 2nd Session of the 52nd Oklahoma  
14 Legislature which relates to definitions; modifying  
15 definition of basic industry; and providing an  
16 effective date.

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

18 SECTION 1. AMENDATORY 68 O.S. 2001, Section 3603, as  
19 last amended by Section 70 of Enrolled Senate Bill No. 2113 of the  
20 2nd Session of the 52nd Oklahoma Legislature, is amended to read as  
21 follows:

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

23 1. a. "Basic industry" means:

(1) those manufacturing activities defined or

24 classified in the NAICS Manual under Industry

1 Sector Nos. 31, 32 and 33, Industry Group No.  
2 5111 or Industry No. 11331,

3 (2) those electric power generation, transmission and  
4 distribution activities defined or classified in  
5 the NAICS Manual under U.S. Industry Nos. 221111  
6 through 221122, if:

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

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

19 (c) the exempt wholesale generator facility  
20 sells to purchasers located outside the  
21 state for consumption in activities located  
22 outside the state at least ninety percent  
23 (90%) of the total electrical energy output  
24 which qualifies for the specialized

1 treatment provided by the Energy Policy Act  
2 of 1992, P.L. 102-486, 106 Stat. 2776, as  
3 amended, and federal regulations adopted  
4 pursuant thereto, and

5 (d) the facility is constructed on or after July  
6 1, 1996,

7 (3) those administrative and facilities support  
8 service activities defined or classified in the  
9 NAICS Manual under Industry Group Nos. 5611 and  
10 5612, Industry Nos. 51821, 519130, 52232, 56142  
11 and 54191 or U.S. Industry Nos. 524291 and  
12 551114, those other support activities for air  
13 transportation defined or classified in the NAICS  
14 Manual under Industry Group No. 488190, and those  
15 support, repair, and maintenance service  
16 activities for the wind industry defined or  
17 classified in the NAICS Manual under Industry  
18 Group No. 811310,

19 (4) those professional, scientific and technical  
20 service activities defined or classified in the  
21 NAICS Manual under U.S. Industry Nos. 541710 and  
22 541380,

23 (5) distribution centers for retail or wholesale  
24 businesses defined or classified in the NAICS

1 Manual under Sector No. 42, if forty percent  
2 (40%) or more of the inventory processed through  
3 such warehouse is shipped out-of-state,

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

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

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

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

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

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

20 (8) flight training services activities defined or  
21 classified in the NAICS Manual under U.S.  
22 Industry Group No. 611512, which for purposes of  
23 Section 3601 et seq. of this title shall include  
24 new direct jobs for which gross payroll existed

1 on or after January 1, 2003, as identified in the  
2 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,

- 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, Industry  
16 Nos. 54131, 54133, 54136, 54137 and 54182,  
17 and U.S. Industry No. 541990, if not  
18 otherwise listed in this paragraph,

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

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



1 establishment is primarily engaged in the  
2 capture and distribution of methane gas  
3 produced within a landfill,

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

7 (p) those activities relating to processing of  
8 insurance claims, defined or classified in  
9 the NAICS Manual under U.S. Industry Nos.  
10 524210 and 524292; provided, activities  
11 described in U.S. Industry Nos. 524210 and  
12 524292 in the NAICS Manual other than

13 processing of insurance claims shall not be  
14 included for purposes of this subdivision,

15 (q) those agricultural activities classified in  
16 the NAICS Manual under U.S. Industry Nos.  
17 112120 and 112310, ~~and~~

18 (r) those professional organization activities  
19 classified in the NAICS Manual under U.S.  
20 Industry No. 813920,

21 (s) alternative energy structure construction  
22 classified in the NAICS Manual under U.S.  
23 Industry No. 237130,

24

1                   (t) solar reflective coating application  
2                   classified in the NAICS Manual under U.S.  
3                   Industry No. 238160, and

4                   (u) solar heating equipment installation  
5                   classified in the NAICS Manual under U.S.  
6                   Industry No. 238220;

7                   (10) those activities related to extraction of crude  
8                   petroleum and natural gas defined or classified  
9                   in the NAICS Manual under Industry Group No.  
10                  2111, subject to the limitations provided in  
11                  paragraph 3 of this subsection and paragraph 3 of  
12                  subsection B of this section,

13                  (11) those activities performed by the federal  
14                  civilian workforce at a facility of the Federal  
15                  Aviation Administration located in this state if  
16                  the Director of the Department of Commerce  
17                  determines or is notified that the federal  
18                  government is soliciting proposals or otherwise  
19                  inviting states to compete for additional federal  
20                  civilian employment or expansion of federal  
21                  civilian employment at such facilities,

22                  (12) those activities defined or classified in the  
23                  NAICS Manual under U.S. Industry No. 711211 (2007  
24                  version), ~~or~~

1 (13) those real estate or brokerage activities  
2 classified in the NAICS Manual under U.S.  
3 Industry No. 53120 for which at least seventy-  
4 five percent (75%) of the establishment's  
5 revenues are attributed to out-of-state sales and  
6 at least seventy-five percent (75%) of the real  
7 estate transactions generating those revenues are  
8 attributed to real property located outside the  
9 State of Oklahoma, or

10 (14) those support activities for rail transportation  
11 and those support activities for water  
12 transportation defined or classified in the NAICS  
13 Manual under U.S. Industry Nos. 4882 and 4883.

14 b. An establishment described in subparagraph a of this  
15 paragraph shall not be considered to be engaged in a  
16 basic industry unless it offers, or will offer within  
17 one hundred eighty (180) days of employment, a basic  
18 health benefits plan to the individuals it employs in  
19 new direct jobs in this state which is determined by  
20 the Oklahoma Department of Commerce to consist of the  
21 following elements or elements substantially  
22 equivalent thereto:

23 (1) not more than fifty percent (50%) of the premium  
24 shall be paid by the employee,

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

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

- 9 a. beneficial ownership of more than fifty percent (50%)  
10 in value and more than fifty percent (50%) in voting  
11 power of the outstanding equity securities of the  
12 transferred establishment, or
- 13 b. more than fifty percent (50%) in value of the assets  
14 of an establishment.

15 A transferor shall be treated as related to a transferee if more  
16 than fifty percent (50%) of the voting interests of the transferor  
17 and transferee are owned, directly or indirectly, by the other or  
18 are owned, directly or indirectly, by the same person or persons,  
19 unless such transferred establishment has an outstanding class of  
20 equity securities registered under Sections 12(b) or 15(d) of the  
21 Securities Exchange Act of 1934, as amended, in which event the  
22 transferor and transferee will be treated as unrelated; provided, an  
23 establishment applying for the Oklahoma Quality Jobs Program Act as  
24 a result of a change of control event is required to apply within

1 one hundred eighty (180) days of the change in control event to  
2 qualify for consideration. An establishment entering the Oklahoma  
3 Quality Jobs Program Act as the result of a change of control event  
4 shall be required to maintain a level of new direct jobs as agreed  
5 to in its contract with the Department of Commerce and to pay new  
6 direct jobs an average annualized wage which equals or exceeds one  
7 hundred twenty-five percent (125%) of the average county wage as  
8 that percentage is determined by the Oklahoma State Data Center  
9 based upon the most recent U.S. Department of Commerce data for the  
10 county in which the new jobs are located. For purposes of this  
11 paragraph, healthcare premiums paid by the applicant for individuals  
12 in new direct jobs shall not be included in the annualized wage.  
13 Such establishment entering the Quality Jobs Program Act as the  
14 result of a change of control event shall be required to retain the  
15 contracted average annualized wage and maintain the contracted  
16 maintenance level of new direct jobs numbers as certified by the  
17 Oklahoma Tax Commission. If the required average annualized wage or  
18 the required new direct jobs numbers do not equal or exceed such  
19 contracted level during any quarter, the quarterly incentive  
20 payments shall not be made and shall not be resumed until such time  
21 as such requirements are met. An establishment described in this  
22 paragraph shall be required to repay all incentive payments received  
23 under the Quality Jobs Program Act if the establishment is  
24 determined by the Oklahoma Tax Commission to no longer have business

1 operations in the state within three (3) years from the beginning of  
2 the calendar quarter for which the first incentive payment claim is  
3 filed.

4 3. "New direct job":

5 a. means full-time-equivalent employment in this state in  
6 an establishment which has qualified to receive an  
7 incentive payment pursuant to the provisions of  
8 Section 3601 et seq. of this title which employment  
9 did not exist in this state prior to the date of  
10 approval by the Department of the application of the  
11 establishment pursuant to the provisions of Section  
12 3604 of this title and with respect to an  
13 establishment qualifying for incentive payments  
14 pursuant to division (12) of subparagraph a of  
15 paragraph 1 of this subsection shall not include  
16 compensation paid to an employee or independent  
17 contractor for an athletic contest conducted in the  
18 state if the compensation is paid by an entity that  
19 does not have its principal place of business in the  
20 state or that does not own real or personal property  
21 having a market value of at least One Million Dollars  
22 (\$1,000,000.00) located in the state, and the  
23 employees or independent contractors of such entity  
24 are compensated to compete against the employees or

1 independent contractors of an establishment that  
2 qualifies for incentive payments pursuant to division  
3 (12) of subparagraph a of paragraph 1 of this  
4 subsection and which is organized under Oklahoma law  
5 or that is lawfully registered to do business in the  
6 state and which does have its principal place of  
7 business located in the state and owns real or  
8 personal property having a market value of at least  
9 One Million Dollars (\$1,000,000.00) located in the  
10 state; provided, that if an application of an  
11 establishment is approved by the Department of  
12 Commerce after a change in control event and the  
13 Director of the Department of Commerce determines that  
14 the jobs located at such establishment are likely to  
15 leave the state, "new direct job" shall include  
16 employment that existed in this state prior to the  
17 date of application which is retained in this state by  
18 the new establishment following a change in control  
19 event, if such job otherwise qualifies as a new direct  
20 job, and

- 21 b. shall include full-time-equivalent employment in this  
22 state of employees who are employed by an employment  
23 agency or similar entity other than the establishment  
24 which has qualified to receive an incentive payment

1 and who are leased or otherwise provided under  
2 contract to the qualified establishment, if such job  
3 did not exist in this state prior to the date of  
4 approval by the Department of the application of the  
5 establishment or the job otherwise qualifies as a new  
6 direct job following a change in control event. A job  
7 shall be deemed to exist in this state prior to  
8 approval of an application if the activities and  
9 functions for which the particular job exists have  
10 been ongoing at any time within six (6) months prior  
11 to such approval. With respect to establishments  
12 defined in division (10) of subparagraph a of  
13 paragraph 1 of this subsection, new direct jobs shall  
14 be limited to those jobs directly comprising the  
15 corporate headquarters of or directly relating to  
16 administrative, financial, engineering, surveying,  
17 geological or geophysical services performed by the  
18 establishment. Under no circumstances shall  
19 employment relating to drilling or field services be  
20 considered new direct jobs;

21 4. "Estimated direct state benefits" means the tax revenues  
22 projected by the Department to accrue to the state as a result of  
23 new direct jobs;



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

- 4           a. the costs of education of new state resident children,
- 5           b. the costs of public health, public safety and  
6           transportation services to be provided to new state  
7           residents,
- 8           c. the costs of other state services to be provided to  
9           new state residents, and
- 10          d. the costs of other state services;

11          6. "Estimated net direct state benefits" means the estimated  
12 direct state benefits less the estimated direct state costs;

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

- 15          a. except as otherwise provided in this paragraph, the  
16          net benefit rate may be variable and shall not exceed  
17          five percent (5%),
- 18          b. the net benefit rate shall not exceed six percent (6%)  
19          in connection with an establishment which is owned and  
20          operated by an entity which has been awarded a United  
21          States Department of Defense contract for which:
  - 22               (1) bids were solicited and accepted by the United  
23               States Department of Defense from facilities  
24               located outside this state,

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

3 (3) the average annual salary, excluding benefits  
4 which are not subject to Oklahoma income taxes,  
5 for new direct jobs created as a direct result of  
6 the awarding of the contract is projected by the  
7 Department of Commerce to equal or exceed Forty  
8 Thousand Dollars (\$40,000.00) within three (3)  
9 years of the date of the first incentive payment,

10 c. except as otherwise provided in subparagraph d of this  
11 paragraph, in no event shall incentive payments,  
12 cumulatively, exceed the estimated net direct state  
13 benefits,

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

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

19 (2) in a county in which:

20 (a) the per capita personal income, as  
21 determined by the Department, is eighty-five  
22 percent (85%) or less of the statewide  
23 average per capita personal income,  
24

1 (b) the population has decreased over the  
2 previous ten (10) years, as determined by  
3 the State Data Center based on the most  
4 recent U.S. Department of Commerce data, or  
5 (c) the unemployment rate exceeds the lesser of  
6 five percent (5%) or two percentage points  
7 above the state average unemployment rate as  
8 certified by the Oklahoma Employment  
9 Security Commission,

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

- 12 (1) is, as of the date of application, receiving  
13 incentive payments pursuant to the Oklahoma  
14 Quality Jobs Program Act and has been receiving  
15 such payments for at least one (1) year prior to  
16 the date of application, and  
17 (2) expands its operations in this state by creating  
18 additional new direct jobs which pay average  
19 annualized wages which equal or exceed one  
20 hundred fifty percent (150%) of the average  
21 annualized wages of new direct jobs on which  
22 incentive payments were received during the  
23 preceding calendar year, and  
24

1 f. with respect to an establishment defined or classified  
2 in the NAICS Manual under U.S. Industry No. 711211  
3 (2007 version) or any establishment defined or  
4 classified in the NAICS Manual as a U.S. Industry  
5 Number which is not included within the definition of  
6 "basic industry" as such term is defined in this  
7 section on April 17, 2008, the net benefit rate shall  
8 not exceed the highest rate of income tax imposed upon  
9 the Oklahoma taxable income of individuals pursuant to  
10 subparagraph (g) or subparagraph (h), as applicable,  
11 of paragraph 1 and paragraph 2 of subsection B of  
12 Section 2355 of this title. Any change in such  
13 highest rate of individual income tax imposed pursuant  
14 to the provisions of Section 2355 of this title shall  
15 be applicable to the computation of incentive payments  
16 to an establishment as described by this subparagraph  
17 and shall be effective for purposes of incentive  
18 payments based on payroll paid by such establishment  
19 on or after January 1 of any applicable year for which  
20 the net benefit rate is modified as required by this  
21 subparagraph.

22 Incentive payments made pursuant to the provisions of this  
23 subparagraph shall be based upon payroll associated with such new  
24 direct jobs. For purposes of this subparagraph, the amount of

1 health insurance premiums or other benefits paid by the  
2 establishment shall not be included for purposes of computation of  
3 the average annualized wage;

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

6 9. a. "Establishment" means any business or governmental  
7 entity, no matter what legal form, including, but not  
8 limited to, a sole proprietorship; partnership;  
9 limited liability company; corporation or combination  
10 of corporations which have a central parent  
11 corporation which makes corporate management decisions  
12 such as those involving consolidation, acquisition,  
13 merger or expansion; federal agency; political  
14 subdivision of the State of Oklahoma; or trust  
15 authority; provided, distinct, identifiable subunits  
16 of such entities may be determined to be an  
17 establishment, for all purposes of Section 3601 et  
18 seq. of this title, by the Department subject to the  
19 following conditions:

20 (1) within three (3) years of the first complete  
21 calendar quarter following the start date, the  
22 entity must have a minimum payroll of Two Million  
23 Five Hundred Thousand Dollars (\$2,500,000.00) and  
24 the subunit must also have or will have a minimum

1 payroll of Two Million Five Hundred Thousand  
2 Dollars (\$2,500,000.00),

3 (2) the subunit is engaged in an activity or service  
4 or produces a product which is demonstratively  
5 independent and separate from the entity's other  
6 activities, services or products and could be  
7 conducted or produced in the absence of any other  
8 activity, service or production of the entity,

9 (3) has an accounting system capable of tracking or  
10 facilitating an audit of the subunit's payroll,  
11 expenses, revenue and production. Limited  
12 interunit overlap of administrative and  
13 purchasing functions shall not disqualify a  
14 subunit from consideration as an establishment by  
15 the Department,

16 (4) the entity has not previously had a subunit  
17 determined to be an establishment pursuant to  
18 this section; provided, the restriction set forth  
19 in this division shall not apply to subunits  
20 which qualify pursuant to the provisions of  
21 subparagraph b of paragraph 6 7 of this  
22 subsection, and  
23  
24

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

4 b. The Department may promulgate rules to further limit  
5 the circumstances under which a subunit may be  
6 considered an establishment. The Department shall  
7 promulgate rules to determine whether a subunit of an  
8 entity achieves a net gain in total employment. The  
9 Department shall establish criteria for determining  
10 the period of time within which such gain must be  
11 demonstrated and a method for determining net gain in  
12 total employment;

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

17 11. "Qualified federal contract" means a contract between an  
18 agency or instrumentality of the United States government, including  
19 but not limited to the Department of Defense or any branch of the  
20 United States Armed Forces, but exclusive of any contract performed  
21 for the Federal Emergency Management Agency as a direct result of a  
22 natural disaster declared by the Governor or the President of the  
23 United States with respect to damage to property located in Oklahoma  
24 or loss of life or personal injury to persons in Oklahoma, and a

1 lawfully recognized business entity, whether or not the business  
2 entity is organized under the laws of the State of Oklahoma or  
3 whether or not the principal place of business of the business  
4 entity is located within the State of Oklahoma, for the performance  
5 of services, including but not limited to testing, research,  
6 development, consulting or other services, if the contract involves  
7 the performance of such services performed on or after ~~the effective~~  
8 ~~date of this act~~ July 1, 2009, by the employees of the business  
9 entity within the State of Oklahoma or if the contract involves the  
10 performance of such services performed on or after ~~the effective~~  
11 ~~date of this act~~ July 1, 2009, by employees of a lawfully recognized  
12 business entity that is a subcontractor of the business entity with  
13 which the prime contract has been formed;

14 12. "Qualified federal contractor verifier" means a nonprofit  
15 entity organized under the laws of the State of Oklahoma, having an  
16 affiliation with a comprehensive university which is part of The  
17 Oklahoma State System of Higher Education, and having the following  
18 characteristics:

- 19 a. established multiyear classified and unclassified  
20 indefinite-delivery/indefinite-quantity federal  
21 contract vehicles in excess of Fifty Million Dollars  
22 (\$50,000,000.00),
- 23 b. current capability to sponsor and maintain personnel  
24 security clearances and authorized by the federal



1 government to handle and perform classified work up to  
2 the Top Secret Sensitive Compartmented Information  
3 levels,

4 c. at least one on-site federally certified Sensitive  
5 Compartmented Information Facility,

6 d. on-site secure mass data storage complex with the  
7 capability of isolating, segregating and protecting  
8 corporate proprietary and classified information,

9 e. trusted agent status by maintaining no ownership of,  
10 vested interest in, nor royalty production from any  
11 intellectual property,

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

14 g. the direct access to restricted air space through a  
15 formalized memorandum of agreement with the Department  
16 of Defense,

17 h. at least five thousand (5,000) acres available for  
18 outdoor testing and training facilities, and

19 i. the ability to house state-of-the-art surety  
20 facilities, including chemical, biological,  
21 radiological, explosives, electronics, and unmanned  
22 systems laboratories and ranges;

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

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

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

13 16. "Total qualified labor hours" means the reimbursed payment  
14 amount for hours of work performed within the state by the employees  
15 of a qualified federal contractor or the employees of a  
16 subcontractor of a qualified federal contractor and which are  
17 required for the full performance of a qualified federal contract;  
18 and

19 17. "Qualified labor rate" means the fully reimbursed labor  
20 rate paid through a qualified federal contract for qualified labor  
21 hours to the qualified federal contractor or subcontractor.

22 B. The Incentive Approval Committee is hereby created and shall  
23 consist of the Director of the Office of State Finance, the Director  
24 of the Department and one member of the Oklahoma Tax Commission

1 appointed by the Tax Commission, or a designee from each agency  
2 approved by such member. It shall be the duty of the Committee to  
3 determine:

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

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

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

19 C. For an establishment defined as a "basic industry" pursuant  
20 to division (4) of subparagraph a of paragraph 1 of subsection A of  
21 this section, the Incentive Approval Committee shall consist of the  
22 members provided by subsection B of this section and the Executive  
23 Director of the Oklahoma Center for the Advancement of Science and  
24

1 Technology, or a designee from the Center appointed by the Executive  
2 Director.

3 SECTION 2. This act shall become effective November 1, 2010.  
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