

THE HOUSE OF REPRESENTATIVES
Tuesday, April 13, 2010

Committee Substitute for
ENGROSSED
Senate Bill No. 2124

COMMITTEE SUBSTITUTE FOR ENGROSSED SENATE BILL NO. 2124 - By:
MAZZEI AND STANISLAWSKI of the Senate and HICKMAN of the House.

[revenue and taxation - Oklahoma Quality Jobs Program Act – NAICS Codes
– alternative energy – solar energy - updating references -
effective date]

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

- 1 SECTION 1. AMENDATORY 68 O.S. 2001, Section 3603, as last amended by
2 Section 70 of Enrolled Senate Bill No. 2113 of the 2nd Session of the 52nd Oklahoma
3 Legislature, is amended to read as follows:
4 Section 3603. A. As used in Section 3601 et seq. of this title:
5 1. a. “Basic industry” means:
6 (1) those manufacturing activities defined or classified in the
7 NAICS Manual under Industry Sector Nos. 31, 32 and 33,
8 Industry Group No. 5111 or Industry No. 11331,
9 (2) those electric power generation, transmission and distribution
10 activities defined or classified in the NAICS Manual under U.S.
11 Industry Nos. 221111 through 221122, if:

- 1 (a) an establishment engaged therein qualifies as an exempt
2 wholesale generator as defined by 15 U.S.C., Section 79z-
3 5a,
4 (b) the exempt wholesale generator facility consumes from
5 sources located within the state at least ninety percent
6 (90%) of the total energy used to produce the electrical
7 output which qualifies for the specialized treatment
8 provided by the Energy Policy Act of 1992, P.L. 102-486,
9 106 Stat. 2776, as amended, and federal regulations
10 adopted pursuant thereto,
11 (c) the exempt wholesale generator facility sells to
12 purchasers located outside the state for consumption in
13 activities located outside the state at least ninety percent
14 (90%) of the total electrical energy output which qualifies
15 for the specialized treatment provided by the Energy
16 Policy Act of 1992, P.L. 102-486, 106 Stat. 2776, as
17 amended, and federal regulations adopted pursuant
18 thereto, and
19 (d) the facility is constructed on or after July 1, 1996,
20 (3) those administrative and facilities support service activities
21 defined or classified in the NAICS Manual under Industry
22 Group Nos. 5611 and 5612, Industry Nos. 51821, 519130, 52232,

1 56142 and 54191 or U.S. Industry Nos. 524291 and 551114,
2 those other support activities for air transportation defined or
3 classified in the NAICS Manual under Industry Group No.
4 488190, and those support, repair, and maintenance service
5 activities for the wind industry defined or classified in the
6 NAICS Manual under Industry Group No. 811310,

7 (4) those professional, scientific and technical service activities
8 defined or classified in the NAICS Manual under U.S. Industry
9 Nos. 541710 and 541380,

10 (5) distribution centers for retail or wholesale businesses defined or
11 classified in the NAICS Manual under Sector No. 42, if forty
12 percent (40%) or more of the inventory processed through such
13 warehouse is shipped out-of-state,

14 (6) those adjustment and collection service activities defined or
15 classified in the NAICS Manual under U.S. Industry No.
16 561440, if seventy-five percent (75%) of the loans to be serviced
17 were made by out-of-state debtors,

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

21 (i) the corporate headquarters of an establishment
22 classified therein, and

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

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

- 1 (8) flight training services activities defined or classified in the
2 NAICS Manual under U.S. Industry Group No. 611512, which
3 for purposes of Section 3601 et seq. of this title shall include new
4 direct jobs for which gross payroll existed on or after January 1,
5 2003, as identified in the NAICS Manual,
- 6 (9) the following, if an establishment classified therein has or will
7 have within one (1) year sales of at least seventy-five percent
8 (75%) of its total sales, as determined by the Incentive Approval
9 Committee pursuant to the provisions of subsection B of this
10 section, to out-of-state customers or buyers, to in-state
11 customers or buyers if the product or service is resold by the
12 purchaser to an out-of-state customer or buyer for ultimate use,
13 or to the federal government:
- 14 (a) those transportation and warehousing activities defined
15 or classified in the NAICS Manual under Industry
16 Subsector No. 493, if not otherwise listed in this
17 paragraph, Industry Subsector No. 484 and Industry
18 Group Nos. 4884 through 4889,
- 19 (b) those passenger transportation activities defined or
20 classified in the NAICS Manual under Industry Nos.
21 561510, 561520 and 561599,

- 1 (c) those freight or cargo transportation activities defined or
2 classified in the NAICS Manual under Industry No.
3 541614,
- 4 (d) those insurance activities defined or classified in the
5 NAICS Manual under Industry Group No. 5241,
- 6 (e) those mailing, reproduction, commercial art and
7 photography and stenographic service activities defined or
8 classified in the NAICS Manual under U.S. Industry Nos.
9 541430, 541860, 541922, 561439 and 561492,
- 10 (f) those services to dwellings and other buildings, as defined
11 or classified in the NAICS Manual under Industry Group
12 No. 5617, excluding U.S. Industry No. 561730,
- 13 (g) those equipment rental and leasing activities defined or
14 classified in the NAICS Manual under Industry Group
15 Nos. 5323 and 5324,
- 16 (h) those employment services defined or classified in the
17 NAICS Manual under Industry Group No. 5613,
- 18 (i) those information technology and other computer-related
19 service activities defined or classified in the NAICS
20 Manual under Industry Group Nos. 5112, 5182, 5191 and
21 5415,

- 1 (j) those business support service activities defined or
2 classified in the NAICS Manual under U.S. Industry Nos.
3 561410 through 561439, Industry Group No. 5616 and
4 Industry No. 51911,
- 5 (k) those medical and diagnostic laboratory activities defined
6 or classified in the NAICS Manual under Industry Group
7 No. 6215,
- 8 (l) those professional, scientific and technical service
9 activities defined or classified in the NAICS Manual
10 under Industry Group Nos. 5412, 5414, 5415, 5416 and
11 5417, Industry Nos. 54131, 54133, 54136, 54137 and
12 54182, and U.S. Industry No. 541990, if not otherwise
13 listed in this paragraph,
- 14 (m) those communication service activities defined or
15 classified in the NAICS Manual under Industry Nos.
16 51741 and 51791,
- 17 (n) those refuse systems activities defined or classified in the
18 NAICS Manual under Industry Group No. 5622, provided
19 that the establishment is primarily engaged in the
20 capture and distribution of methane gas produced within
21 a landfill,

- 1 (o) general wholesale distribution of groceries, defined or
2 classified in the NAICS Manual under Industry Group
3 Nos. 4244 and 4245,
- 4 (p) those activities relating to processing of insurance claims,
5 defined or classified in the NAICS Manual under U.S.
6 Industry Nos. 524210 and 524292; provided, activities
7 described in U.S. Industry Nos. 524210 and 524292 in the
8 NAICS Manual other than processing of insurance claims
9 shall not be included for purposes of this subdivision,
- 10 (q) those agricultural activities classified in the NAICS
11 Manual under U.S. Industry Nos. 112120 and 112310,
12 ~~and~~
- 13 (r) those professional organization activities classified in the
14 NAICS Manual under U.S. Industry No. 813920,
- 15 (s) alternative energy structure construction classified in the
16 NAICS Manual under U.S. Industry No. 237130,
- 17 (t) solar reflective coating application classified in the
18 NAICS Manual under U.S. Industry No. 238160, and
- 19 (u) solar heating equipment installation classified in the
20 NAICS Manual under U.S. Industry No. 238220;
- 21 (10) those activities related to extraction of crude petroleum and
22 natural gas defined or classified in the NAICS Manual under

1 Industry Group No. 2111, subject to the limitations provided in
2 paragraph 3 of this subsection and paragraph 3 of subsection B
3 of this section,

4 (11) those activities performed by the federal civilian workforce at a
5 facility of the Federal Aviation Administration located in this
6 state if the Director of the Department of Commerce determines
7 or is notified that the federal government is soliciting proposals
8 or otherwise inviting states to compete for additional federal
9 civilian employment or expansion of federal civilian employment
10 at such facilities,

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

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

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

1 b. An establishment described in subparagraph a of this paragraph shall
2 not be considered to be engaged in a basic industry unless it offers, or
3 will offer within one hundred eighty (180) days of employment, a basic
4 health benefits plan to the individuals it employs in new direct jobs in
5 this state which is determined by the Oklahoma Department of
6 Commerce to consist of the following elements or elements
7 substantially equivalent thereto:

- 8 (1) not more than fifty percent (50%) of the premium shall be paid
9 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 unrelated
17 establishments or unrelated persons, of either:

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

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

1 the quarterly incentive payments shall not be made and shall not be resumed until such
2 time as such requirements are met. An establishment described in this paragraph shall
3 be required to repay all incentive payments received under the Quality Jobs Program Act
4 if the establishment is determined by the Oklahoma Tax Commission to no longer have
5 business operations in the state within three (3) years from the beginning of the calendar
6 quarter for which the first incentive payment claim is filed.

7 3. "New direct job":

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

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

16 b. shall include full-time-equivalent employment in this state of
17 employees who are employed by an employment agency or similar
18 entity other than the establishment which has qualified to receive an
19 incentive payment and who are leased or otherwise provided under
20 contract to the qualified establishment, if such job did not exist in this
21 state prior to the date of approval by the Department of the application
22 of the establishment or the job otherwise qualifies as a new direct job

1 following a change in control event. A job shall be deemed to exist in
2 this state prior to approval of an application if the activities and
3 functions for which the particular job exists have been ongoing at any
4 time within six (6) months prior to such approval. With respect to
5 establishments defined in division (10) of subparagraph a of paragraph
6 1 of this subsection, new direct jobs shall be limited to those jobs
7 directly comprising the corporate headquarters of or directly relating
8 to administrative, financial, engineering, surveying, geological or
9 geophysical services performed by the establishment. Under no
10 circumstances shall employment relating to drilling or field services be
11 considered new direct jobs;

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

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

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

1 6. “Estimated net direct state benefits” means the estimated direct state benefits
2 less the estimated direct state costs;

3 7. “Net benefit rate” means the estimated net direct state benefits computed as a
4 percentage of gross payroll; provided:

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

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

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

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

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

- 1 c. except as otherwise provided in subparagraph d of this paragraph, in
2 no event shall incentive payments, cumulatively, exceed the estimated
3 net direct state benefits,
- 4 d. the net benefit rate shall be five percent (5%) for an establishment
5 locating:
- 6 (1) in an opportunity zone located in a high-employment county, as
7 such terms are defined in subsection G of Section 3604 of this
8 title, or
- 9 (2) in a county in which:
- 10 (a) the per capita personal income, as determined by the
11 Department, is eighty-five percent (85%) or less of the
12 statewide average per capita personal income,
- 13 (b) the population has decreased over the previous ten (10)
14 years, as determined by the State Data Center based on
15 the most recent U.S. Department of Commerce data, or
- 16 (c) the unemployment rate exceeds the lesser of five percent
17 (5%) or two percentage points above the state average
18 unemployment rate as certified by the Oklahoma
19 Employment Security Commission,
- 20 e. the net benefit rate shall not exceed six percent (6%) in connection
21 with an establishment which:

1 (1) is, as of the date of application, receiving incentive payments
2 pursuant to the Oklahoma Quality Jobs Program Act and has
3 been receiving such payments for at least one (1) year prior to
4 the date of application, and
5 (2) expands its operations in this state by creating additional new
6 direct jobs which pay average annualized wages which equal or
7 exceed one hundred fifty percent (150%) of the average
8 annualized wages of new direct jobs on which incentive
9 payments were received during the preceding calendar year, and
10 f. with respect to an establishment defined or classified in the NAICS
11 Manual under U.S. Industry No. 711211 (2007 version) or any
12 establishment defined or classified in the NAICS Manual as a U.S.
13 Industry Number which is not included within the definition of "basic
14 industry" as such term is defined in this section on April 17, 2008, the
15 net benefit rate shall not exceed the highest rate of income tax
16 imposed upon the Oklahoma taxable income of individuals pursuant to
17 subparagraph (g) or subparagraph (h), as applicable, of paragraph 1
18 and paragraph 2 of subsection B of Section 2355 of this title. Any
19 change in such highest rate of individual income tax imposed
20 pursuant to the provisions of Section 2355 of this title shall be
21 applicable to the computation of incentive payments to an
22 establishment as described by this subparagraph and shall be effective

1 for purposes of incentive payments based on payroll paid by such
2 establishment on or after January 1 of any applicable year for which
3 the net benefit rate is modified as required by this subparagraph.

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

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

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

21 (1) within three (3) years of the first complete calendar quarter
22 following the start date, the entity must have a minimum

1 payroll of Two Million Five Hundred Thousand Dollars
2 (\$2,500,000.00) and the subunit must also have or will have a
3 minimum payroll of Two Million Five Hundred Thousand
4 Dollars (\$2,500,000.00),

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

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

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

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

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

8 10. “NAICS Manual” means any manual, book or other publication containing the
9 North American Industry Classification System, United States, 1997, promulgated by
10 the Office of Management and Budget of the United States of America, or the latest
11 revised edition;

12 11. “Qualified federal contract” means a contract between an agency or
13 instrumentality of the United States government, including but not limited to the
14 Department of Defense or any branch of the United States Armed Forces, but exclusive
15 of any contract performed for the Federal Emergency Management Agency as a direct
16 result of a natural disaster declared by the Governor or the President of the United
17 States with respect to damage to property located in Oklahoma or loss of life or personal
18 injury to persons in Oklahoma, and a lawfully recognized business entity, whether or not
19 the business entity is organized under the laws of the State of Oklahoma or whether or
20 not the principal place of business of the business entity is located within the State of
21 Oklahoma, for the performance of services, including but not limited to testing, research,
22 development, consulting or other services, if the contract involves the performance of

1 such services performed on or after ~~the effective date of this act~~ July 1, 2009, by the
2 employees of the business entity within the State of Oklahoma or if the contract involves
3 the performance of such services performed on or after ~~the effective date of this act~~ July
4 1, 2009, by employees of a lawfully recognized business entity that is a subcontractor of
5 the business entity with which the prime contract has been formed;

6 12. “Qualified federal contractor verifier” means a nonprofit entity organized under
7 the laws of the State of Oklahoma, having an affiliation with a comprehensive university
8 which is part of The Oklahoma State System of Higher Education, and having the
9 following characteristics:

- 10 a. established multiyear classified and unclassified indefinite-
11 delivery/indefinite-quantity federal contract vehicles in excess of Fifty
12 Million Dollars (\$50,000,000.00),
- 13 b. current capability to sponsor and maintain personnel security
14 clearances and authorized by the federal government to handle and
15 perform classified work up to the Top Secret Sensitive Compartmented
16 Information levels,
- 17 c. at least one on-site federally certified Sensitive Compartmented
18 Information Facility,
- 19 d. on-site secure mass data storage complex with the capability of
20 isolating, segregating and protecting corporate proprietary and
21 classified information,

- 1 e. trusted agent status by maintaining no ownership of, vested interest
2 in, nor royalty production from any intellectual property,
3 f. at least one hundred thousand (100,000) square feet of configurable
4 laboratory and support space,
5 g. the direct access to restricted air space through a formalized
6 memorandum of agreement with the Department of Defense,
7 h. at least five thousand (5,000) acres available for outdoor testing and
8 training facilities, and
9 i. the ability to house state-of-the-art surety facilities, including
10 chemical, biological, radiological, explosives, electronics, and
11 unmanned systems laboratories and ranges;

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

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

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

1 16. “Total qualified labor hours” means the reimbursed payment amount for hours
2 of work performed within the state by the employees of a qualified federal contractor or
3 the employees of a subcontractor of a qualified federal contractor and which are required
4 for the full performance of a qualified federal contract; and

5 17. “Qualified labor rate” means the fully reimbursed labor rate paid through a
6 qualified federal contract for qualified labor hours to the qualified federal contractor or
7 subcontractor.

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

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

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

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

4 C. For an establishment defined as a “basic industry” pursuant to division (4) of
5 subparagraph a of paragraph 1 of subsection A of this section, the Incentive Approval
6 Committee shall consist of the members provided by subsection B of this section and the
7 Executive Director of the Oklahoma Center for the Advancement of Science and
8 Technology, or a designee from the Center appointed by the Executive Director.

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

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
11 dated 04-12-10 - DO PASS, As Amended.