

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3017

By: Scott

4
5 AS INTRODUCED

6 An Act relating to public energy programs; creating
7 the Green Jobs Incentives Act of 2010; enacting the
8 Green Quality Jobs Act of 2010; amending 68 O.S.
9 2001, Sections 3603, as last amended by Section 1,
10 Chapter 369, O.S.L. 2009 and 3604, as last amended by
11 Section 5, Chapter 406, O.S.L. 2008 (68 O.S. Supp.
12 2009, Sections 3603 and 3604), which relate to the
13 Oklahoma Quality Jobs Program Act; modifying
14 definitions; providing for net benefit rate for
15 designated business activities; providing specialized
16 gross direct payroll requirements; enacting the
17 Oklahoma Green Energy Finance Program Act; defining
18 terms; creating Oklahoma Green Energy Finance
19 Program; providing for oversight by certain Energy
20 Office; imposing duties on Energy Office or program
21 administrator; creating Green Energy Program Fund;
22 creating accounts; providing for deposit of monies in
23 fund; prescribing requirements for interest;
24 prohibiting transfer of certain monies; providing for
payments; providing for payments to lenders;
providing for payments based upon uncollectable loan
amounts; providing for transfer of monies by State
Treasurer; requiring information to be provided to
Treasurer; authorizing certain investment; providing
for implementation of program; specifying
requirements for administration; prescribing loan
application procedures; providing for certain
borrower classifications; prescribing method for
computation of interest rates; requiring annual
report; prescribing content of report; providing for
reporting to certain committees of the Legislature;
providing for codification; providing for
noncodification; providing an effective date; and
declaring an emergency.

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

2 SECTION 1. NEW LAW A new section of law not to be
3 codified in the Oklahoma Statutes reads as follows:

4 This act shall be known and may be cited as the "Green Jobs
5 Incentives Act of 2010".

6 SECTION 2. NEW LAW A new section of law not to be
7 codified in the Oklahoma Statutes reads as follows:

8 Sections 3 and 4 of this act shall be known and may be cited as
9 the "Green Quality Jobs Act of 2010".

10 SECTION 3. AMENDATORY 68 O.S. 2001, Section 3603, as
11 last amended by Section 1, Chapter 369, O.S.L. 2009 (68 O.S. Supp.
12 2009, Section 3603), is amended to read as follows:

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

15 1. a. "Basic industry" means:

16 (1) those manufacturing activities defined or
17 classified in the NAICS Manual under Industry
18 Sector Nos. 31, 32 and 33, Industry Group No.
19 5111 or Industry No. 11331,

20 (2) those electric power generation, transmission and
21 distribution activities defined or classified in
22 the NAICS Manual under U.S. Industry Nos. 221111
23 through 221122, if:

24

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

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

13 (c) the exempt wholesale generator facility
14 sells to purchasers located outside the
15 state for consumption in activities located
16 outside the state at least ninety percent
17 (90%) of the total electrical energy output
18 which qualifies for the specialized
19 treatment provided by the Energy Policy Act
20 of 1992, P.L. 102-486, 106 Stat. 2776, as
21 amended, and federal regulations adopted
22 pursuant thereto, and

23 (d) the facility is constructed on or after July
24 1, 1996,

1 (3) those administrative and facilities support
2 service activities defined or classified in the
3 NAICS Manual under Industry Group Nos. 5611 and
4 5612, Industry Nos. 51821, 519130, 52232, 56142
5 and 54191 or U.S. Industry Nos. 524291 and
6 551114, and those other support activities for
7 air transportation defined or classified in the
8 NAICS Manual under Industry Group No. 488190,

9 (4) those professional, scientific and technical
10 service activities defined or classified in the
11 NAICS Manual under U.S. Industry Nos. 541710 and
12 541380,

13 (5) distribution centers for retail or wholesale
14 businesses defined or classified in the NAICS
15 Manual under Sector No. 42, if forty percent
16 (40%) or more of the inventory processed through
17 such warehouse is shipped out-of-state,

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

23 (7) (a) those air transportation activities defined
24 or classified in the NAICS Manual under

1 Industry Group No. 4811, if the following
2 facilities are located in this state:

- 3 (i) the corporate headquarters of an
4 establishment classified therein, and
5 (ii) a facility or facilities at which
6 reservations for transportation
7 provided by such an establishment are
8 processed, whether such services are
9 performed by employees of the
10 establishment, by employees of a
11 subsidiary of or other entity
12 affiliated with the establishment or by
13 employees of an entity with whom the
14 establishment has contracted for the
15 performance of such services; provided,
16 this provision shall not disqualify an
17 establishment which uses an out-of-
18 state entity or employees for some
19 reservations services, or

- 20 (b) those air transportation activities defined
21 or classified in the NAICS Manual under
22 Industry Group No. 4811, if an establishment
23 classified therein has or will have within
24 one (1) year sales of at least seventy-five

1 percent (75%) of its total sales, as
2 determined by the Incentive Approval
3 Committee pursuant to the provisions of
4 subsection B of this section, to out-of-
5 state customers or buyers, to in-state
6 customers or buyers if the product or
7 service is resold by the purchaser to an
8 out-of-state customer or buyer for ultimate
9 use, or to the federal government,

10 (8) flight training services activities defined or
11 classified in the NAICS Manual under U.S.
12 Industry Group No. 611512, which for purposes of
13 Section 3601 et seq. of this title shall include
14 new direct jobs for which gross payroll existed
15 on or after January 1, 2003, as identified in the
16 NAICS Manual,

17 (9) the following, if an establishment classified
18 therein has or will have within one (1) year
19 sales of at least seventy-five percent (75%) of
20 its total sales, as determined by the Incentive
21 Approval Committee pursuant to the provisions of
22 subsection B of this section, to out-of-state
23 customers or buyers, to in-state customers or
24 buyers if the product or service is resold by the

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

3 (a) those transportation and warehousing
4 activities defined or classified in the
5 NAICS Manual under Industry Subsector No.
6 493, if not otherwise listed in this
7 paragraph, Industry Subsector No. 484 and
8 Industry Group Nos. 4884 through 4889,

9 (b) those passenger transportation activities
10 defined or classified in the NAICS Manual
11 under Industry Nos. 561510, 561520 and
12 561599,

13 (c) those freight or cargo transportation
14 activities defined or classified in the
15 NAICS Manual under Industry No. 541614,

16 (d) those insurance activities defined or
17 classified in the NAICS Manual under
18 Industry Group No. 5241,

19 (e) those mailing, reproduction, commercial art
20 and photography and stenographic service
21 activities defined or classified in the
22 NAICS Manual under U.S. Industry Nos.
23 541430, 541860, 541922, 561439 and 561492,
24

- 1 (f) those services to dwellings and other
2 buildings, as defined or classified in the
3 NAICS Manual under Industry Group No. 5617,
4 excluding U.S. Industry No. 561730,
- 5 (g) those equipment rental and leasing
6 activities defined or classified in the
7 NAICS Manual under Industry Group Nos. 5323
8 and 5324,
- 9 (h) those employment services defined or
10 classified in the NAICS Manual under
11 Industry Group No. 5613,
- 12 (i) those information technology and other
13 computer-related service activities defined
14 or classified in the NAICS Manual under
15 Industry Group Nos. 5112, 5182, 5191 and
16 5415,
- 17 (j) those business support service activities
18 defined or classified in the NAICS Manual
19 under U.S. Industry Nos. 561410 through
20 561439, Industry Group No. 5616 and Industry
21 No. 51911,
- 22 (k) those medical and diagnostic laboratory
23 activities defined or classified in the
24 NAICS Manual under Industry Group No. 6215,

- 1 (l) those professional, scientific and technical
2 service activities defined or classified in
3 the NAICS Manual under Industry Group Nos.
4 5412, 5414, 5415, 5416 and 5417, Industry
5 Nos. 54131, 54133, 54136, 54137 and 54182,
6 and U.S. Industry No. 541990, if not
7 otherwise listed in this paragraph,
- 8 (m) those communication service activities
9 defined or classified in the NAICS Manual
10 under Industry Nos. 51741 and 51791,
- 11 (n) those refuse systems activities defined or
12 classified in the NAICS Manual under
13 Industry Group No. 5622, provided that the
14 establishment is primarily engaged in the
15 capture and distribution of methane gas
16 produced within a landfill,
- 17 (o) general wholesale distribution of groceries,
18 defined or classified in the NAICS Manual
19 under Industry Group Nos. 4244 and 4245,
- 20 (p) those activities relating to processing of
21 insurance claims, defined or classified in
22 the NAICS Manual under U.S. Industry Nos.
23 524210 and 524292; provided, activities
24 described in U.S. Industry Nos. 524210 and

1 524292 in the NAICS Manual other than
2 processing of insurance claims shall not be
3 included for purposes of this subdivision,
4 (q) those agricultural activities classified in
5 the NAICS Manual under U.S. Industry Nos.
6 112120 and 112310, and
7 (r) those professional organization activities
8 classified in the NAICS Manual under U.S.
9 Industry No. 813920;

10 (10) those activities related to extraction of crude
11 petroleum and natural gas defined or classified
12 in the NAICS Manual under Industry Group No.
13 2111, subject to the limitations provided in
14 paragraph 3 of this subsection and paragraph 3 of
15 subsection B of this section,

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

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

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

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

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

24 (2) coverage for basic hospital care,

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

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

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

14 A transferor shall be treated as related to a transferee if more
15 than fifty percent (50%) of the voting interests of the transferor
16 and transferee are owned, directly or indirectly, by the other or
17 are owned, directly or indirectly, by the same person or persons,
18 unless such transferred establishment has an outstanding class of
19 equity securities registered under Sections 12(b) or 15(d) of the
20 Securities Exchange Act of 1934, as amended, in which event the
21 transferor and transferee will be treated as unrelated; provided, an
22 establishment applying for the Oklahoma Quality Jobs Program Act as
23 a result of a change of control event is required to apply within
24 one hundred eighty (180) days of the change in control event to

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

1 the calendar quarter for which the first incentive payment claim is
2 filed.

3 3. "New direct job":

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

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

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

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

20 4. "Estimated direct state benefits" means the tax revenues
21 projected by the Department to accrue to the state as a result of
22 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, and
22 g. the net benefit rate shall equal five percent (5%) for
23 the following industries:
24

- 1 (1) Industry Group No. 221119 (solar electric power
2 generation or wind electric power generation),
- 3 (2) Industry Group No. 237130 (solar power structure
4 construction or wind power structure
5 construction),
- 6 (3) Industry Group No. 333414 (solar energy heating
7 equipment manufacturing),
- 8 (4) Industry Group No. 333611 (wind-powered turbine
9 generator set manufacturing),
- 10 (5) Industry Group No. 334413 (solar cells
11 manufacturing),
- 12 (6) a business primarily engaged in the production
13 and manufacture of passenger or commercial motor
14 vehicles powered by compressed natural gas,
- 15 (7) a business primarily engaged in the conversion of
16 passenger or commercial motor vehicles using
17 conventional gasoline or diesel combustion
18 engines to a propulsion system using compressed
19 natural gas, and
- 20 (8) a business engaged in the manufacture of
21 components that can be used for a compressed
22 natural gas fill station.

23 Incentive payments made pursuant to the provisions of this
24 subparagraph shall be based upon payroll associated with such new

1 direct jobs. For purposes of this subparagraph, the amount of
2 health insurance premiums or other benefits paid by the
3 establishment shall not be included for purposes of computation of
4 the average annualized wage;

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

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

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

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

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

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

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

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 by the employees of the business entity within the
9 State of Oklahoma or if the contract involves the performance of
10 such services performed on or after the effective date of this act
11 by employees of a lawfully recognized business entity that is a
12 subcontractor of the business entity with which the prime contract
13 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 State Finance, the Director of the
24 Department and one member of the Oklahoma Tax Commission appointed

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

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

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

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

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

1 SECTION 4. AMENDATORY 68 O.S. 2001, Section 3604, as
2 last amended by Section 5, Chapter 406, O.S.L. 2008 (68 O.S. Supp.
3 2009, Section 3604), is amended to read as follows:

4 Section 3604. A. Except as otherwise provided in subsection I
5 of this section, an establishment which meets the qualifications
6 specified in the Oklahoma Quality Jobs Program Act may receive
7 quarterly incentive payments for a ten-year period from the Oklahoma
8 Tax Commission pursuant to the provisions of the Oklahoma Quality
9 Jobs Program Act; provided, such an establishment defined or
10 classified in the NAICS Manual under U.S. Industry No. 711211 (2007
11 version) may receive quarterly incentive payments for a fifteen-year
12 period. The amount of such payments shall be equal to the net
13 benefit rate multiplied by the actual gross payroll of new direct
14 jobs for a calendar quarter as verified by the Oklahoma Employment
15 Security Commission.

16 B. In order to receive incentive payments, an establishment
17 shall apply to the Oklahoma Department of Commerce. The application
18 shall be on a form prescribed by the Department and shall contain
19 such information as may be required by the Department to determine
20 if the applicant is qualified. An establishment may apply for an
21 effective date for a project, which shall not be more than twenty-
22 four (24) months from the date the application is submitted to the
23 Department.

24

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

4 1. Be engaged in a basic industry;

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

9 3. Have a number of full-time-equivalent employees subject to
10 the tax imposed by Section 2355 of this title and working an annual
11 average of thirty (30) or more hours per week in new direct jobs
12 located in this state equal to or in excess of eighty percent (80%)
13 of the total number of new direct jobs.

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

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

19 a. have an annual gross payroll for new direct jobs
20 projected by the Department to equal or exceed One
21 Million Five Hundred Thousand Dollars (\$1,500,000.00)
22 within three (3) years of the first complete calendar
23 quarter following the start date and make, or which
24 will make within one (1) year, at least seventy-five

1 percent (75%) of its total sales, as determined by the
2 Incentive Approval Committee pursuant to the
3 provisions of subsection B of Section 3603 of this
4 title, to out-of-state customers or buyers, to in-
5 state customers or buyers if the product or service is
6 resold by the purchaser to an out-of-state customer or
7 buyer for ultimate use, or to the federal government,
8 unless the annual gross payroll equals or exceeds Two
9 Million Five Hundred Thousand Dollars (\$2,500,000.00)
10 in which case the requirements for purchase of output
11 provided by this subparagraph shall not apply, and

- 12 b. have a number of full-time-equivalent employees
13 working an average of thirty (30) or more hours per
14 week in new direct jobs equal to or in excess of
15 eighty percent (80%) of the total number of new direct
16 jobs; ~~and~~

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

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

1 b. have a number of full-time-equivalent employees
2 working an average of thirty (30) or more hours per
3 week in new direct jobs equal to or in excess of
4 eighty percent (80%) of the total number of new direct
5 jobs; and

6 3. Industry Groups described by the NAICS Manual (2007 version)
7 or other business activity specified in subparagraphs a through h of
8 this paragraph, any of which businesses shall be required to have an
9 annual gross payroll for new direct jobs projected by the Department
10 to equal or exceed One Million Two Hundred Thousand Dollars
11 (\$1,200,000.00) within three (3) years of the first complete
12 calendar quarter following the start date, and have a number of
13 full-time-equivalent employees working an average of thirty (30) or
14 more hours per week in new direct jobs equal to or in excess of
15 eighty percent (80%) of the total number of new direct jobs, as
16 follows:

- 17 a. No. 221119 (solar electric power generation or wind
18 electric power generation),
- 19 b. No. 237130 (solar power structure construction or wind
20 power structure construction),
- 21 c. No. 333414 (solar energy heating equipment
22 manufacturing),
- 23 d. No. 333611 (wind-powered turbine generator set
24 manufacturing),

- 1 e. No. 334413 (solar cells manufacturing),
2 f. a business primarily engaged in the production and
3 manufacture of passenger or commercial motor vehicles
4 powered by compressed natural gas,
5 g. a business primarily engaged in the conversion of
6 passenger or commercial motor vehicles using
7 conventional gasoline or diesel combustion engines to
8 a propulsion system using compressed natural gas, and
9 h. a business engaged in the manufacture of components
10 that can be used for a compressed natural gas fill
11 station.

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

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

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

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

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

- 18 a. the site designated by the entity does meet one or
19 more of the requirements listed in paragraph 1 of this
20 subsection, and
- 21 b. the site is being or has been remediated to a level
22 which is consistent with the intended use of the
23 property.

24

1 In making its determination, the Department of Environmental
2 Quality may rely on existing data and information available to it,
3 but may also require the applying entity to provide additional data
4 and information as necessary.

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

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

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

24

1 2. One hundred percent (100%) of the average county wage as
2 that percentage is determined by the Oklahoma State Data Center
3 based upon the most recent U.S. Department of Commerce data for the
4 county in which the new jobs are located. For purposes of this
5 paragraph, health care premiums paid by the applicant for
6 individuals in new direct jobs shall not be included in the
7 annualized wage.

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

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

23 2. As used in this subsection:

24 a. "negative economic event" means:

1 (1) a man-made disaster or natural disaster as
2 defined in Section 683.3 of Title 63 of the
3 Oklahoma Statutes, resulting in the loss of a
4 significant number of jobs within a particular
5 county of this state, or

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

12 b. "significant number of jobs" means Local Area
13 Unemployment Statistics (LAUS) data, as determined by
14 the Bureau of Labor Statistics, for a county which are
15 equal to or in excess of five percent (5%) of the
16 total amount of Local Area Unemployment Statistics
17 (LAUS) data for that county for the calendar year, or
18 most recent twelve-month period in which employment is
19 measured, preceding the event.

20 An establishment which is otherwise qualified to receive
21 incentive payments and which locates in a county in which a negative
22 economic event has occurred within the eighteen-month period
23 preceding the start date shall not be subject to the requirements of
24 subsection F of this section; provided, an establishment shall not

1 be eligible to receive incentive payments based upon a negative
2 economic event with respect to jobs that are transferred from one
3 county of this state to another.

4 H. The Department shall determine if the applicant is qualified
5 to receive incentive payments.

6 I. If the applicant is determined to be qualified by the
7 Department and is not subject to the provisions of subparagraph d of
8 paragraph 7 of subsection A of Section 3603 of this title, the
9 Department shall conduct a cost/benefit analysis to determine the
10 estimated net direct state benefits and the net benefit rate
11 applicable for a ten-year period beginning with the first complete
12 calendar quarter following the start date and to estimate the amount
13 of gross payroll for a ten-year period beginning with the first
14 complete calendar quarter following the start date or for a fifteen-
15 year period for an establishment defined or classified in the NAICS
16 Manual under U.S. Industry No. 711211 (2007 version). In conducting
17 such cost/benefit analysis, the Department shall consider
18 quantitative factors, such as the anticipated level of new tax
19 revenues to the state along with the added cost to the state of
20 providing services, and such other criteria as deemed appropriate by
21 the Department. In no event shall incentive payments, cumulatively,
22 exceed the estimated net direct state benefits, except for
23 applicants subject to the provisions of subparagraph d of paragraph
24 7 of subsection A of Section 3603 of this title.

1 J. Upon approval of such an application, the Department shall
2 notify the Tax Commission and shall provide it with a copy of the
3 contract and the results of the cost/benefit analysis. The Tax
4 Commission may require the qualified establishment to submit such
5 additional information as may be necessary to administer the
6 provisions of the Oklahoma Quality Jobs Program Act. The approved
7 establishment shall file quarterly claims with the Tax Commission
8 and shall continue to file such quarterly claims during the ten-year
9 incentive period to show its continued eligibility for incentive
10 payments, as provided in Section 3606 of this title, or until it is
11 no longer qualified to receive incentive payments. The
12 establishment may be audited by the Tax Commission to verify such
13 eligibility. Once the establishment is approved, an agreement shall
14 be deemed to exist between the establishment and the State of
15 Oklahoma, requiring the continued incentive payment to be made as
16 long as the establishment retains its eligibility as defined in and
17 established pursuant to this section and Sections 3603 and 3606 of
18 this title and within the limitations contained in the Oklahoma
19 Quality Jobs Program Act, which existed at the time of such
20 approval.

21 K. A municipality with a population of less than one hundred
22 thousand (100,000) persons in which an establishment eligible to
23 receive quarterly incentive payments pursuant to the provisions of
24 this section is located may file a claim with the Tax Commission for

1 up to twenty-five percent (25%) of the amount of such payment. The
2 amount of such claim shall not exceed amounts paid by the
3 municipality for direct costs of municipal infrastructure
4 improvements to provide water and sewer service to the
5 establishment. Such claim shall not be approved by the Tax
6 Commission unless the municipality and the establishment have
7 entered into a written agreement for such claims to be filed by the
8 municipality prior to submission of the application of the
9 establishment pursuant to the provisions of this section. If such
10 claim is approved, the amount of the payment to the establishment
11 made pursuant to the provisions of Section 3606 of this title shall
12 be reduced by the amount of the approved claim by the municipality
13 and the Tax Commission shall issue a warrant to the municipality in
14 the amount of the approved claim in the same manner as warrants are
15 issued to qualifying establishments.

16 SECTION 5. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 1101 of Title 62, unless there
18 is created a duplication in numbering, reads as follows:

19 Sections 6 through 12 of this act shall be known and may be
20 cited as the "Oklahoma Green Energy Finance Program Act".

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1102 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

24 As used in this act, unless the context otherwise requires:

1 1. "Area median income" means the median income of the county
2 in which the primary residence of a qualified borrower is located in
3 relation to family size, as published annually by the United States
4 Department of Housing and Urban Development;

5 2. "Certified contractor" means a contractor, including but not
6 limited to a general, heating, air conditioning, or lighting
7 contractor, certified by the program administrator to market the
8 program to potential qualified borrowers and make Green energy
9 improvements that may be financed by Green energy loans;

10 3. "Green energy improvement" means any repair of or addition
11 or improvement to residential real property completed by or under
12 the supervision of a certified contractor that improves the energy
13 efficiency of the property or replaces all or a portion of the
14 energy from nonrenewable sources used in connection with the
15 property with energy from renewable sources;

16 4. "Green energy loan" means a loan in a maximum amount of
17 Twelve Thousand Five Hundred Dollars (\$12,500.00) originated by a
18 participating public lender or a participating private lender to a
19 qualified borrower for the purpose of financing one or more green
20 energy improvements to the borrower's primary residence; except
21 that, if the qualified borrower is a nonprofit corporation or local
22 government housing authority that provides units in a multiunit
23 housing project as homes to individuals or families who meet the
24 income qualifications of first-tier or second-tier qualified

1 borrowers, the maximum amount of a loan shall be Twelve Thousand
2 Five Hundred Dollars (\$12,500.00) multiplied by the number of units
3 in the multiunit housing project provided to the individuals or
4 families;

5 5. "First-tier qualified borrower" means a qualified borrower
6 whose income is less than eighty percent (80%) of area median
7 income;

8 6. "Office" means the Governor's Energy Office;

9 7. "Program" means the Oklahoma Green Energy Finance Program;

10 8. "Program administrator" or "administrator" means one or more
11 entities selected by the Office to:

12 a. market the program,

13 b. recruit, train, and certify contractors,

14 c. measure and verify, in accordance with standards
15 established by the Office, energy, emissions, and
16 gross and net cost savings resulting from green energy
17 improvements financed by green energy loans originated
18 and serviced by participating public lenders and
19 private lenders,

20 d. encourage homeowners to participate in utility demand-
21 side management programs where applicable, and

22 e. perform such other duties as may be authorized in this
23 act or required by the Office;

24

1 9. "Program fund" means the Green Energy Program Fund created
2 in this act;

3 10. "Public lender" means a county, municipality, district,
4 authority, or other political subdivision of the state authorized to
5 make economic development, affordable housing, or housing
6 rehabilitation loans;

7 11. "Qualified borrower" means an individual or family who owns
8 his, her, or their primary residence and satisfies lending
9 guidelines established by the program administrator or a charitable
10 nonprofit corporation exempt from taxation under Section 501(c)(3)
11 of the Internal Revenue Code of 1986, as amended, or county or
12 municipal housing authority that provides homes for ownership or
13 rental to homeowners or renters who meet the income qualifications
14 of first-tier or second-tier qualified borrowers;

15 12. "Second-tier qualified borrower" means a qualified borrower
16 whose income is eighty percent (80%) or more, but less than one
17 hundred twenty percent (120%), of area median income; and

18 13. "Third-tier qualified borrower" means a qualified borrower
19 whose income is one hundred twenty percent (120%) or more of area
20 median income.

21 SECTION 7. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1103 of Title 62, unless there
23 is created a duplication in numbering, reads as follows:

24 A. The Oklahoma Green Energy Finance Program is hereby created.

1 B. The Office shall oversee the program and the program
2 administrator and shall, in addition to exercising any other powers
3 and performing any other duties specified in this act:

4 1. Select the program administrator in accordance with the
5 provisions of The Oklahoma Central Purchasing Act. In selecting the
6 program administrator, the Office shall consider the extent to which
7 a potential program administrator has demonstrated experience in
8 recruiting, training, and certifying contractors or can otherwise
9 establish that it will be able to perform such functions;

10 2. Directly market the program to the general public or
11 contract with the program administrator for the marketing of the
12 program to the general public;

13 3. Develop and operate or contract with the program
14 administrator for the development and operation of a quality
15 assurance, measurement, and verification program to:

16 a. monitor the quality of green energy improvement
17 installations, and

18 b. measure and report on energy, emissions, and gross and
19 net cost savings resulting from green energy
20 improvements financed by green energy loans;

21 4. Determine, in consultation with the State Treasurer, when
22 the administrative and procedural framework for the program and the
23 available administrative and financial resources for the program are
24 sufficiently developed to allow the Office to effectively oversee

1 the program. No green energy loan shall be marketed to a potential
2 qualified borrower, applied for by a potential qualified borrower,
3 or made to a qualified borrower until the Office has determined that
4 it is ready to effectively oversee the program and instructed
5 certified contractors to begin marketing green energy loans; and

6 5. Exercise such other powers and perform such other duties
7 necessary or incidental to or implied from the specific powers and
8 duties specified in this act.

9 C. The Green Energy Program Fund is hereby created in the State
10 Treasury, and the following accounts are hereby created in the fund:

- 11 1. The loan buy-down account; and
12 2. The loan loss reserve account.

13 SECTION 8. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 1104 of Title 62, unless there
15 is created a duplication in numbering, reads as follows:

16 A. The program fund and the accounts of the program fund shall
17 consist of such monies as the Legislature may appropriate thereto
18 from the Green Energy Program Fund and any gifts, grants, or
19 donations that may be made to the program fund.

20 B. In accordance with requirements imposed upon the State
21 Treasurer, in making investments, to use prudence and care to
22 preserve the principal and to secure the maximum rate of interest
23 consistent with safety and liquidity, if the Legislature chooses not
24 to appropriate monies to the program fund or to the accounts of the

1 program fund nothing in this act shall be deemed to require the
2 State Treasurer to credit any monies to the program fund or the
3 accounts of the program fund.

4 C. All interest and income earned on the deposit and investment
5 of monies in the program fund and the accounts of the program fund
6 shall be used for the loan buy-down account and the loan loss
7 reserve account.

8 D. Monies in the loan buy-down account and loan loss reserve
9 account of the program fund shall remain in the accounts and shall
10 not be transferred to the general fund or any other fund at the end
11 of any fiscal year.

12 E. All monies in the program fund are continuously appropriated
13 to the Office, and the Office shall make payments from the loan buy-
14 down account of the program fund to participating public lenders and
15 private lenders to compensate the lenders for the reduction in the
16 amount of future interest payments resulting from the provision of
17 Green energy loans to first-tier and second-tier qualified borrowers
18 at the below-market interest rates specified by law.

19 F. The Office shall pay the compensation for each green energy
20 loan by paying to the lender a lump sum equal to the present value
21 of the reduction in future interest payments on the date the loan
22 closes.

23

24

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1105 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. The Office shall make payments from the loan loss reserve
5 account of the program fund to compensate participating public
6 lenders and private lenders for the uncollectible amount of green
7 energy loans any such lenders have written off. The Office shall
8 pay the compensation for each uncollectible green energy loan by
9 paying to the lender a lump sum equal to the present value of the
10 uncollectible portion of the loan on the date the lender wrote it
11 off.

12 B. The State Treasurer shall periodically transfer monies from
13 the loan buy-down account of the program fund to the loan loss
14 reserve account of the program fund to ensure that the balance of
15 the loan loss reserve account is at least five percent (5%) of the
16 total principal amount of outstanding Green energy loans made by
17 participating public lenders and private lenders. The administrator
18 shall update the State Treasurer regarding outstanding green energy
19 loans originated by such lenders as required by the State Treasurer
20 so that the State Treasurer can accurately determine the appropriate
21 amount and timing of transfers.

22 C. The State Treasurer may invest up to a total amount of
23 _____ Dollars of state monies in bonds or notes issued by
24

1 participating public or private lenders for the purpose of funding
2 green energy loans during the 2010-11 fiscal year.

3 SECTION 10. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1106 of Title 62, unless there
5 is created a duplication in numbering, reads as follows:

6 In accordance with terms contractually agreed to by the program
7 administrator and the Office, acting on behalf of the state, the
8 program administrator shall implement and administer the program by:

9 1. Recruiting, selecting, screening, training, and certifying
10 contractors, including but not limited to general, heating, air
11 conditioning, and lighting contractors, to be certified contractors
12 capable of marketing the program and completing green energy
13 improvements. The program administrator may charge contractors a
14 reasonable fee for training and certification, and the recruiting,
15 selection, screening, training, and certification process shall
16 include, at a minimum:

17 a. direct marketing of the program to contractors,
18 b. financial and business practices background checks of
19 contractors seeking to become certified contractors,
20 and

21 c. initial training that includes:

22 (1) education regarding the elements of the program,
23 the financial and environmental benefits of Green
24 energy improvements, including but not limited to

1 specific education regarding products qualified
2 to bear the federal energy star label, and
3 recommended means of marketing the program to
4 potential program customers, and

5 (2) the provision of information regarding additional
6 required training and other requirements for
7 contractors who may wish to become preferred
8 contractors under the federal home performance
9 with energy star program; and

10 2. Issuing annual reports regarding the administration of the
11 program as specified in Section 12 of this act.

12 SECTION 11. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 1107 of Title 62, unless there
14 is created a duplication in numbering, reads as follows:

15 A. A potential qualified borrower shall apply for a green
16 energy loan by completing an initial loan application. The Office
17 or, at the discretion of the Office, the program administrator or
18 participating public lenders and private lenders shall prescribe the
19 form of the loan application and shall determine, based on the
20 application and such other information as the administrator may
21 reasonably require from the applicant, whether the applicant is a
22 qualified borrower and, if so, whether the qualified borrower is a
23 first-tier, second-tier, or third-tier qualified borrower.

1 B. A participating public lender may only originate Green
2 energy loans for first-tier and second-tier qualified borrowers. A
3 qualified borrower may choose a loan term of up to ten (10) years.
4 The State Treasurer shall, using a formula tied to a regularly
5 published interest rate index selected by the State Treasurer,
6 determine a base annual rate of interest to be charged on loans made
7 to third-tier qualified borrowers.

8 C. The State Treasurer shall set an annual rate of interest for
9 loans to second-tier qualified borrowers by subtracting a number of
10 basis points selected by the State Treasurer from the base annual
11 rate and shall set an annual rate of interest for loans to first-
12 tier qualified borrowers by subtracting a number of basis points
13 selected by the State Treasurer from the annual rate of interest for
14 loans to second-tier qualified borrowers.

15 D. The interest rate charged to a qualified borrower that is a
16 nonprofit corporation or a housing authority shall be the interest
17 rate charged to second-tier qualified borrowers; except that the
18 interest rate charged to a nonprofit corporation or housing
19 authority shall be the interest rate charged to first-tier qualified
20 buyers if the nonprofit corporation or housing authority only
21 provides the housing for which the loan will finance green energy
22 improvements to individuals or families who are first-tier qualified
23 borrowers.

24

1 SECTION 12. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 1108 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. No later than one (1) year from the date of issuance of the
5 first Green energy loan by a participating public lender or private
6 lender pursuant to the Oklahoma Green Energy Finance Program Act,
7 and no later than the same date each subsequent year, the program
8 administrator shall provide to the Office a report detailing its
9 administration of the program since its inception and for the prior
10 fiscal year. The report shall include, at a minimum:

11 1. A detailed accounting of the financial status of the
12 program, including statements regarding:

13 a. the total number and principal amount of green energy
14 loans originated and the number and principal amount
15 of green energy loans originated to first-tier,
16 second-tier, and third-tier qualified borrowers,

17 b. the total amount of outstanding principal and interest
18 on green energy loans owed by qualified borrowers and
19 the amount of such principal and interest owed by
20 first-tier, second-tier, and third-tier qualified
21 borrowers,

22 c. the total number and principal and interest amounts of
23 any uncollectible green energy loans written off by
24 participating public lenders and private lenders and

1 the number and principal amounts of such loans issued
2 to first-tier, second-tier, and third-tier qualified
3 borrowers,

4 d. the total amount of bonds or other notes in which the
5 State Treasurer has invested as authorized by law, the
6 payments made on such bonds or other notes, and the
7 payments to be made in the future on such bonds or
8 other notes, and

9 e. the amounts paid to the administrator by the state
10 pursuant to law and any contracts entered into by the
11 state and the administrator as authorized by this act;

12 2. Estimates of the total energy, emissions, and gross and net
13 cost savings resulting from green energy improvements financed by
14 green energy loans; and

15 3. Any recommended program improvements.

16 B. No later than each January 30, the Office shall report to
17 the relevant committee of the House of Representatives and the
18 relevant committee of the State Senate regarding the program. The
19 report shall include the information provided to the Office in the
20 program administrator's annual report and whatever additional
21 information the Office deems relevant to fully apprise the
22 committees regarding the status of the program.

23 SECTION 13. This act shall become effective July 1, 2010.
24

1 SECTION 14. It being immediately necessary for the preservation
2 of the public peace, health and safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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