

OKLAHOMA STATE SENATE  
GENERAL CONFERENCE COMMITTEE ON APPROPRIATIONS

Mr. President:

Date: 5-14-2012

Mr. Speaker:

The Conference Committee, to which was referred

SB 1464

By: Bingman and Mazzei of the Senate and McNiell and Pittman of the House

Title: Oklahoma Quality Jobs Program Act; modifying definitions. Emergency.

together with Engrossed House Amendments thereto, beg leave to report that we have had the same under consideration and herewith return the same with the following recommendations:

1. That the House recede from all Amendments.
2. By restoring the Enacting Clause.

SENATE CONFEREES:

Ballenger [Signature]  
Branan [Signature]  
Brinkley [Signature]  
Burrage \_\_\_\_\_  
Crain \_\_\_\_\_  
David [Signature]  
Ford [Signature]  
Griffin [Signature]  
Halligan [Signature]  
Ivester [Signature]  
Jolley [Signature]  
Justice [Signature]

Marlatt \_\_\_\_\_  
Mazzei [Signature]  
McAffrey \_\_\_\_\_  
Newberry [Signature]  
Nichols [Signature]  
Paddack \_\_\_\_\_  
Stanislowski \_\_\_\_\_  
Sykes \_\_\_\_\_  
Wilson [Signature]  
Wyrick \_\_\_\_\_  
\_\_\_\_\_  
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HOUSE CONFEREES:

Conference Committee on Appropriations

**ADOPTED & PASSED**

**MAY 21 2012**

Senate Action \_\_\_\_\_ Date \_\_\_\_\_ House Action \_\_\_\_\_ Date \_\_\_\_\_

## HOUSE CONFEREES

Armes

\_\_\_\_\_

Sears

Earl Sears

Billy

~~W.A.~~

Walker

Ernest D. Walker

Blackwell

\_\_\_\_\_

Brown

Mike Brown

Cox

Douglas G. Cox M.P.

Dank

David M. Dank

DeWitt

\_\_\_\_\_

Denney

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Dorman

\_\_\_\_\_

Hoskin

Charles Hoskin

Liebmann

Ray Lieberman

Martin (Scott)

Scott C. Martin

McPeak

\_\_\_\_\_

Nelson

Jason Nelson

Peters

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1 ENGROSSED HOUSE AMENDMENT  
2 TO  
3 ENGROSSED SENATE BILL NO. 1464 By: Bingman and Mazzei of  
4 the Senate  
5 and  
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An Act relating to the Oklahoma Quality Jobs Program  
Act; amending 68 O.S. 2011, Section 3603, which  
relates to definitions; modifying definitions; and  
declaring an emergency.

AUTHOR: Add the following House Coauthor: Pittman

AMENDMENT NO. 1. Page 1, line 11, strike the enacting clause

Passed the House of Representatives the 23rd day of April, 2012.

\_\_\_\_\_  
Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Presiding Officer of the Senate

ENGROSSED SENATE  
BILL NO. 1464

By: Bingman and Mazzei of the  
Senate

and

McNiel of the House

An Act relating to the Oklahoma Quality Jobs Program Act; amending 68 O.S. 2011, Section 3603, which relates to definitions; modifying definitions; and declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2011, Section 3603, is amended to read as follows:

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

1. a. "Basic industry" means:

- (1) those manufacturing activities defined or classified in the NAICS Manual under Industry Sector Nos. 31, 32 and 33, Industry Group No. 5111 or Industry No. 11331,
- (2) those electric power generation, transmission and distribution activities defined or classified in the NAICS Manual under U.S. Industry Nos. 221111 through 221122, if:

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,

- (3) those administrative and facilities support service activities defined or classified in the NAICS Manual under Industry Group Nos. 5611 and 5612, Industry Nos. 51821, 519130, 52232, 56142 and 54191 or U.S. Industry Nos. 524291 and 551114, those other support activities for air transportation defined or classified in the NAICS Manual under Industry Group No. 488190, and those support, repair, and maintenance service activities for the wind industry defined or classified in the NAICS Manual under Industry Group No. 811310,
- (4) those professional, scientific and technical service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 541710 and 541380,
- (5) distribution centers for retail or wholesale businesses defined or classified in the NAICS Manual under Sector No. 42, if forty percent (40%) or more of the inventory processed through such warehouse is shipped out-of-state,
- (6) those adjustment and collection service activities defined or classified in the NAICS Manual under U.S. Industry No. 561440, if

seventy-five percent (75%) of the loans to be serviced were made by out-of-state debtors,

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

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

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

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

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

(9) the following, if an establishment classified therein has or will have within one (1) year sales of at least seventy-five percent (75%) of



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

- 8 (a) those transportation and warehousing  
9 activities defined or classified in the  
10 NAICS Manual under Industry Subsector No.  
11 493, if not otherwise listed in this  
12 paragraph, Industry Subsector No. 484 and  
13 Industry Group Nos. 4884 through 4889,  
14 (b) those passenger transportation activities  
15 defined or classified in the NAICS Manual  
16 under Industry Nos. 561510, 561520 and  
17 561599,  
18 (c) those freight or cargo transportation  
19 activities defined or classified in the  
20 NAICS Manual under Industry No. 541614,  
21 (d) those insurance activities defined or  
22 classified in the NAICS Manual under  
23 Industry Group No. 5241,  
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- (e) those mailing, reproduction, commercial art and photography and stenographic service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 541430, 541860, 541922, 561439 and 561492,
- (f) those services to dwellings and other buildings, as defined or classified in the NAICS Manual under Industry Group No. 5617, excluding U.S. Industry No. 561730,
- (g) those equipment rental and leasing activities defined or classified in the NAICS Manual under Industry Group Nos. 5323 and 5324,
- (h) those employment services defined or classified in the NAICS Manual under Industry Group No. 5613,
- (i) those information technology and other computer-related service activities defined or classified in the NAICS Manual under Industry Group Nos. 5112, 5182, 5191 and 5415,
- (j) those business support service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 561410 through

561439, Industry Group No. 5616 and Industry  
No. 51911,

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

(l) those professional, scientific and technical  
service activities defined or classified in  
the NAICS Manual under Industry Group Nos.  
5412, 5414, 5415, 5416 and 5417, Industry  
Nos. 54131, 54133, 54136, 54137 and 54182,  
and U.S. Industry No. 541990, if not  
otherwise listed in this paragraph,

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

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

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

- (p) those activities relating to processing of insurance claims, defined or classified in the NAICS Manual under U.S. Industry Nos. 524210 and 524292; provided, activities described in U.S. Industry Nos. 524210 and 524292 in the NAICS Manual other than processing of insurance claims shall not be included for purposes of this subdivision,
- (q) those agricultural activities classified in the NAICS Manual under U.S. Industry Nos. 112120 and 112310,
- (r) those professional organization activities classified in the NAICS Manual under U.S. Industry No. 813920,
- (s) alternative energy structure construction classified in the NAICS Manual under U.S. Industry No. 237130,
- (t) solar reflective coating application classified in the NAICS Manual under U.S. Industry No. 238160, and
- (u) solar heating equipment installation classified in the NAICS Manual under U.S. Industry No. 238220;

- 1 (10) those activities related to extraction of crude  
2 petroleum and natural gas defined or classified  
3 in the NAICS Manual under Industry Group No. 2111  
4 or 213111, subject to the limitations provided in  
5 paragraph 3 of this subsection and paragraph 3 of  
6 subsection B of this section,
- 7 (11) those activities performed by the federal  
8 civilian workforce at a facility of the Federal  
9 Aviation Administration located in this state if  
10 the Director of the Department of Commerce  
11 determines or is notified that the federal  
12 government is soliciting proposals or otherwise  
13 inviting states to compete for additional federal  
14 civilian employment or expansion of federal  
15 civilian employment at such facilities,
- 16 (12) those activities defined or classified in the  
17 NAICS Manual under U.S. Industry No. 711211 (2007  
18 version),
- 19 (13) those real estate or brokerage activities  
20 classified in the NAICS Manual under U.S.  
21 Industry No. 53120 for which at least seventy-  
22 five percent (75%) of the establishment's  
23 revenues are attributed to out-of-state sales and  
24 at least seventy-five percent (75%) of the real

1 estate transactions generating those revenues are  
2 attributed to real property located outside the  
3 State of Oklahoma, or

4 (14) those support activities for rail transportation  
5 and those support activities for water  
6 transportation defined or classified in the NAICS  
7 Manual under U.S. Industry Nos. 4882 and 4883.

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

- 17 (1) not more than fifty percent (50%) of the premium  
18 shall be paid by the employee,  
19 (2) coverage for basic hospital care,  
20 (3) coverage for physician care,  
21 (4) coverage for mental health care,  
22 (5) coverage for substance abuse treatment,  
23 (6) coverage for prescription drugs, and  
24 (7) coverage for prenatal care;

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

3            a.    beneficial ownership of more than fifty percent (50%)  
4                    in value and more than fifty percent (50%) in voting  
5                    power of the outstanding equity securities of the  
6                    transferred establishment, or

7            b.    more than fifty percent (50%) in value of the assets  
8                    of an establishment.

9        A transferor shall be treated as related to a transferee if more  
10 than fifty percent (50%) of the voting interests of the transferor  
11 and transferee are owned, directly or indirectly, by the other or  
12 are owned, directly or indirectly, by the same person or persons,  
13 unless such transferred establishment has an outstanding class of  
14 equity securities registered under Sections 12(b) or 15(d) of the  
15 Securities Exchange Act of 1934, as amended, in which event the  
16 transferor and transferee will be treated as unrelated; provided, an  
17 establishment applying for the Oklahoma Quality Jobs Program Act as  
18 a result of a change of control event is required to apply within  
19 one hundred eighty (180) days of the change in control event to  
20 qualify for consideration. An establishment entering the Oklahoma  
21 Quality Jobs Program Act as the result of a change of control event  
22 shall be required to maintain a level of new direct jobs as agreed  
23 to in its contract with the Department of Commerce and to pay new  
24 direct jobs an average annualized wage which equals or exceeds one

1 hundred twenty-five percent (125%) 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, healthcare premiums paid by the applicant for individuals  
6 in new direct jobs shall not be included in the annualized wage.  
7 Such establishment entering the Quality Jobs Program Act as the  
8 result of a change of control event shall be required to retain the  
9 contracted average annualized wage and maintain the contracted  
10 maintenance level of new direct jobs numbers as certified by the Tax  
11 Commission. If the required average annualized wage or the required  
12 new direct jobs numbers do not equal or exceed such contracted level  
13 during any quarter, the quarterly incentive payments shall not be  
14 made and shall not be resumed until such time as such requirements  
15 are met. An establishment described in this paragraph shall be  
16 required to repay all incentive payments received under the Quality  
17 Jobs Program Act if the establishment is determined by the Oklahoma  
18 Tax Commission to no longer have business operations in the state  
19 within three (3) years from the beginning of the calendar quarter  
20 for which the first incentive payment claim is filed.

21 3. "New direct job":

- 22 a. means full-time-equivalent employment in this state in  
23 an establishment which has qualified to receive an  
24 incentive payment pursuant to the provisions of



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

1 personal property having a market value of at least  
2 One Million Dollars (\$1,000,000.00) located in the  
3 state; provided, that if an application of an  
4 establishment is approved by the Department of  
5 Commerce after a change in control event and the  
6 Director of the Department of Commerce determines that  
7 the jobs located at such establishment are likely to  
8 leave the state, "new direct job" shall include  
9 employment that existed in this state prior to the  
10 date of application which is retained in this state by  
11 the new establishment following a change in control  
12 event, if such job otherwise qualifies as a new direct  
13 job, and

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

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

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

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

- 20 a. the costs of education of new state resident children,
- 21 b. the costs of public health, public safety and
- 22 transportation services to be provided to new state
- 23 residents,
- 24

1           c.    the costs of other state services to be provided to  
2                new state residents, and

3           d.    the costs of other state services;

4           6.    "Estimated net direct state benefits" means the estimated  
5   direct state benefits less the estimated direct state costs;

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

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

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

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

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

20               (3)   the average annual salary, excluding benefits  
21                      which are not subject to Oklahoma income taxes,  
22                      for new direct jobs created as a direct result of  
23                      the awarding of the contract is projected by the  
24                      Department of Commerce to equal or exceed Forty

1                   Thousand Dollars (\$40,000.00) within three (3)  
2                   years of the date of the first incentive payment,  
3       c.   except as otherwise provided in subparagraph d of this  
4           paragraph, in no event shall incentive payments,  
5           cumulatively, exceed the estimated net direct state  
6           benefits,  
7       d.   the net benefit rate shall be five percent (5%) for an  
8           establishment locating:  
9           (1)   in an opportunity zone located in a high-  
10           employment county, as such terms are defined in  
11           subsection G of Section 3604 of this title, or  
12           (2)   in a county in which:  
13               (a)   the per capita personal income, as  
14                   determined by the Department, is eighty-five  
15                   percent (85%) or less of the statewide  
16                   average per capita personal income,  
17               (b)   the population has decreased over the  
18                   previous ten (10) years, as determined by  
19                   the State Data Center based on the most  
20                   recent U.S. Department of Commerce data, or  
21               (c)   the unemployment rate exceeds the lesser of  
22                   five percent (5%) or two percentage points  
23                   above the state average unemployment rate as  
24

certified by the Oklahoma Employment  
Security Commission,

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

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

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

f. with respect to an establishment defined or classified  
in the NAICS Manual under U.S. Industry No. 711211  
(2007 version) or any establishment defined or  
classified in the NAICS Manual as a U.S. Industry  
Number which is not included within the definition of  
"basic industry" as such term is defined in this  
section on April 17, 2008, the net benefit rate shall  
not exceed the highest rate of income tax imposed upon

1 the Oklahoma taxable income of individuals pursuant to  
2 subparagraph (g) or subparagraph (h), as applicable,  
3 of paragraph 1 and paragraph 2 of subsection B of  
4 Section 2355 of this title. Any change in such  
5 highest rate of individual income tax imposed pursuant  
6 to the provisions of Section 2355 of this title shall  
7 be applicable to the computation of incentive payments  
8 to an establishment as described by this subparagraph  
9 and shall be effective for purposes of incentive  
10 payments based on payroll paid by such establishment  
11 on or after January 1 of any applicable year for which  
12 the net benefit rate is modified as required by this  
13 subparagraph.

14 Incentive payments made pursuant to the provisions of this  
15 subparagraph shall be based upon payroll associated with such new  
16 direct jobs. For purposes of this subparagraph, the amount of  
17 health insurance premiums or other benefits paid by the  
18 establishment shall not be included for purposes of computation of  
19 the average annualized wage;

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

22 9. a. "Establishment" means any business or governmental  
23 entity, no matter what legal form, including, but not  
24 limited to, a sole proprietorship; partnership;

1 limited liability company; corporation or combination  
2 of corporations which have a central parent  
3 corporation which makes corporate management decisions  
4 such as those involving consolidation, acquisition,  
5 merger or expansion; federal agency; political  
6 subdivision of the State of Oklahoma; or trust  
7 authority; provided, distinct, identifiable subunits  
8 of such entities may be determined to be an  
9 establishment, for all purposes of Section 3601 et  
10 seq. of this title, by the Department subject to the  
11 following conditions:

12 (1) within three (3) years of the first complete  
13 calendar quarter following the start date, the  
14 entity must have a minimum payroll of Two Million  
15 Five Hundred Thousand Dollars (\$2,500,000.00) and  
16 the subunit must also have or will have a minimum  
17 payroll of Two Million Five Hundred Thousand  
18 Dollars (\$2,500,000.00),

19 (2) the subunit is engaged in an activity or service  
20 or produces a product which is demonstratively  
21 independent and separate from the entity's other  
22 activities, services or products and could be  
23 conducted or produced in the absence of any other  
24 activity, service or production of the entity,



1 (3) has an accounting system capable of tracking or  
2 facilitating an audit of the subunit's payroll,  
3 expenses, revenue and production. Limited  
4 interunit overlap of administrative and  
5 purchasing functions shall not disqualify a  
6 subunit from consideration as an establishment by  
7 the Department,

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

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

18 b. The Department may promulgate rules to further limit  
19 the circumstances under which a subunit may be  
20 considered an establishment. The Department shall  
21 promulgate rules to determine whether a subunit of an  
22 entity achieves a net gain in total employment. The  
23 Department shall establish criteria for determining  
24 the period of time within which such gain must be

1                   demonstrated and a method for determining net gain in  
2                   total employment;

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

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

1 employees of a lawfully recognized business entity that is a  
2 subcontractor of the business entity with which the prime contract  
3 has been formed. A qualified federal contract described in this  
4 paragraph shall not qualify unless both the qualified federal  
5 contractor and any subcontractors originally involved in the work or  
6 added subsequently during the period of performance verify to the  
7 qualified federal contractor verifier that it offers, or will offer  
8 within one hundred eighty (180) days of employment of its respective  
9 employees, a basic health benefits plan as described in subparagraph  
10 b of paragraph 1 of this subsection to individuals who perform  
11 qualified labor hours in this state;

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

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

- 1           the Top Secret Sensitive Compartmented Information  
2           levels,
- 3           c.   at least one on-site federally certified Sensitive  
4           Compartmented Information Facility,
- 5           d.   on-site secure mass data storage complex with the  
6           capability of isolating, segregating and protecting  
7           corporate proprietary and classified information,
- 8           e.   trusted agent status by maintaining no ownership of,  
9           vested interest in, nor royalty production from any  
10          intellectual property,
- 11          f.   at least one hundred thousand (100,000) square feet of  
12          configurable laboratory and support space,
- 13          g.   the direct access to restricted air space through a  
14          formalized memorandum of agreement with the Department  
15          of Defense,
- 16          h.   at least five thousand (5,000) acres available for  
17          outdoor testing and training facilities, and
- 18          i.   the ability to house state-of-the-art surety  
19          facilities, including chemical, biological,  
20          radiological, explosives, electronics, and unmanned  
21          systems laboratories and ranges;

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

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

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

10       16. "Total qualified labor hours" means the reimbursed payment  
11 amount for hours of work performed by the State of Oklahoma  
12 workforce of a qualified federal contractor or the State of Oklahoma  
13 workforce of a subcontractor of a qualified federal contractor and  
14 which are required for the full performance of a qualified federal  
15 contract;

16       17. "Qualified labor rate" means the fully reimbursed labor  
17 rate paid through a qualified federal contract for qualified labor  
18 hours to the qualified federal contractor or subcontractor; and

19       18. "Qualified federal contractor" means a business entity:

20           a. maintaining a prime contract with the federal  
21           government as defined in paragraph 11 of this  
22           subsection,

23           b. providing notice of intent to apply to the Department  
24           within one hundred eighty (180) days of the effective

1 date of this act or one hundred eighty (180) days of  
2 the date of the award of a qualified federal contract  
3 or award of a new qualified subcontract under an  
4 existing qualified federal contract, and

5 c. adding substantively to the contract by performing at  
6 least eight percent (8%) of the total labor whether  
7 qualified and nonqualified labor as determined by the  
8 federal contractor verifier on a direct contract or  
9 individual task order or delivery order on an  
10 indefinite-delivery/indefinite-quantity or other  
11 blanket contract vehicle.

12 Should a prime contractor provide notice to the Department of  
13 its intent not to apply for incentive for a qualified federal  
14 contract or fails to qualify under the criteria above,  
15 subcontractors in order of tier ranking as determined by the federal  
16 contract verifier may assume the role of the prime and apply to  
17 become a qualified federal contractor provided the entity meets the  
18 same criteria above with the exception that notice of intent to  
19 apply with the Department must be provided within sixty (60) days of  
20 the prime's disqualification or one hundred eighty (180) days of the  
21 award of its subcontract, whichever is later.

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

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

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

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

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

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

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

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

7 Passed the Senate the 28th day of February, 2012.

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\_\_\_\_\_  
Presiding Officer of the Senate

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11 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
12 2012.

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Presiding Officer of the House  
of Representatives

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