

**COMMITTEE AMENDMENT**  
HOUSE OF REPRESENTATIVES  
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB613 \_\_\_\_\_  
Of the printed Bill  
Page \_\_\_\_\_ Section \_\_\_\_\_ Lines \_\_\_\_\_  
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

**AMEND TITLE TO CONFORM TO AMENDMENTS**

Adopted: \_\_\_\_\_

Amendment submitted by: Skye McNiel

\_\_\_\_\_

\_\_\_\_\_  
Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 PROPOSED  
4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 613

By: Brinkley and Mazzei of the  
Senate

and

McNiel of the House

7  
8  
9  
10 PROPOSED COMMITTEE SUBSTITUTE

11 [ incentive payments - modifying definition of basic  
12 industry - modifying requirements for incentive  
13 payment application - effective date ]  
14  
15

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

17 SECTION 1. AMENDATORY 68 O.S. 2011, Section 3603, as  
18 amended by Section 1, Chapter 310, O.S.L. 2012 (68 O.S. Supp. 2012,  
19 Section 3603), is amended to read as follows:

20 Section 3603. A. As used in ~~Section 3601 et seq. of this title~~  
21 the Oklahoma Quality Jobs Program Act:

22 1. a. "Basic industry" means:

23 (1) those manufacturing activities defined or  
24 classified in the NAICS Manual under Industry

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

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

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

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

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

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

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

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

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

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

1 Manual under Sector No. 42, if forty percent  
2 (40%) or more of the inventory processed through  
3 such warehouse is shipped out-of-state,  
4 (6) those adjustment and collection service  
5 activities defined or classified in the NAICS  
6 Manual under U.S. Industry No. 561440, if  
7 seventy-five percent (75%) of the loans to be  
8 serviced were made by out-of-state debtors,

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

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

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

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

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

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

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

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

13 (a) those transportation and warehousing  
14 activities defined or classified in the  
15 NAICS Manual under Industry Subsector No.  
16 493, if not otherwise listed in this  
17 paragraph, ~~Industry Subsector No.~~ Subsector  
18 Nos. 482 and 484 and Industry Group Nos.  
19 4884 through 4889,

20 (b) those passenger transportation activities  
21 defined or classified in the NAICS Manual  
22 under Industry Nos. 561510, 561520 and  
23 561599,  
24

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

1 or classified in the NAICS Manual under  
2 Industry Group Nos. 5112, 5182, 5191 and  
3 5415,

4 (j) those business support service activities  
5 defined or classified in the NAICS Manual  
6 under U.S. Industry Nos. 561410 through  
7 561439, Industry Group No. 5616 and Industry  
8 No. 51911,

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

12 (l) those professional, scientific and technical  
13 service activities defined or classified in  
14 the NAICS Manual under Industry Group Nos.  
15 5412, 5414, 5415, 5416 and 5417, Industry  
16 Nos. 54131, 54133, 54136, 54137 and 54182,  
17 and U.S. Industry No. 541990, if not  
18 otherwise listed in this paragraph,

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

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

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

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

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

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

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

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

21 (s) alternative energy structure construction  
22 classified in the NAICS Manual under U.S.  
23 Industry No. 237130,  
24

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

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

7 (v) those wired telecommunications carriers  
8 classified in the NAICS Manual under U.S.  
9 Industry No. 517110, and

10 (w) those securities, commodity contracts and  
11 investment activities classified in the  
12 NAICS Manual under Industry Subsector No.  
13 523;

14 (10) those activities related to extraction or  
15 pipeline transportation of crude petroleum, and  
16 natural gas or refined petroleum products,  
17 defined or classified in the NAICS Manual under  
18 Industry Group No. 2111, ~~or~~ 213111, 213112 or  
19 486, subject to the limitations provided in  
20 paragraph 3 of this subsection and paragraph 3 of  
21 subsection B of this section,

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

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

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

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

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

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

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

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

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

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

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

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

13 3. "New direct job":

14 a. means full-time-equivalent employment in this state in  
15 an establishment which has qualified to receive an  
16 incentive payment pursuant to the provisions of  
17 ~~Section 3601 et seq. of this title~~ the Oklahoma  
18 Quality Jobs Program Act which employment did not  
19 exist in this state prior to the date of approval by  
20 the Department of the application of the establishment  
21 pursuant to the provisions of Section 3604 of this  
22 title and with respect to an establishment qualifying  
23 for incentive payments pursuant to division (12) of  
24 subparagraph a of paragraph 1 of this subsection shall

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

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

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

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

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

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

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

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

21 7. "Net benefit rate" means the estimated net direct state  
22 benefits computed as a percentage of gross payroll; provided:  
23  
24

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

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

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

6 (2) in a county in which:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 qualified federal contractor verifier that it offers, or will offer  
2 within one hundred eighty (180) days of employment of its respective  
3 employees, a basic health benefits plan as described in subparagraph  
4 b of paragraph 1 of this subsection to individuals who perform  
5 qualified labor hours in this state;

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

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

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

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

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

15. "Effective date" means the date of approval of a contract under which incentive payments will be made pursuant to the Oklahoma Quality Jobs Program Act, which shall be the date the signed and accepted incentive contract is received by the Department; provided,

1 an approved project may have a start date which is different from  
2 the effective date;

3 16. "Total qualified labor hours" means the reimbursed payment  
4 amount for hours of work performed by the State of Oklahoma  
5 workforce of a qualified federal contractor or the State of Oklahoma  
6 workforce of a subcontractor of a qualified federal contractor and  
7 which are required for the full performance of a qualified federal  
8 contract;

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

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

13 a. maintaining a prime contract with the federal  
14 government as defined in paragraph 11 of this  
15 subsection,

16 b. providing notice of intent to apply to the Department  
17 within one hundred eighty (180) days of the effective  
18 date of this act or one hundred eighty (180) days of  
19 the date of the award of a qualified federal contract  
20 or award of a new qualified subcontract under an  
21 existing qualified federal contract, and

22 c. adding substantively to the contract by performing at  
23 least eight percent (8%) of the total labor whether  
24 qualified and nonqualified labor as determined by the

1 federal contractor verifier on a direct contract or  
2 individual task order or delivery order on an  
3 indefinite-delivery/indefinite-quantity or other  
4 blanket contract vehicle.

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

15 B. The Incentive Approval Committee is hereby created and shall  
16 consist of the Director of the Office of State Finance, the Director  
17 of the Department and one member of the Oklahoma Tax Commission  
18 appointed by the Tax Commission, or a designee from each agency  
19 approved by such member. It shall be the duty of the Committee to  
20 determine:

21 1. Upon initial application on a form approved by the  
22 Committee, if an establishment is engaged in a basic industry as  
23 defined in subdivision (b) of division (7) or in subdivisions (a)  
24 through (p) of division (9) of subparagraph a of paragraph 1 of

1 subsection A of this section or as otherwise provided by subsection  
2 C of this section;

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

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

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

19 SECTION 2. AMENDATORY 68 O.S. 2011, Section 3604, is  
20 amended to read as follows:

21 Section 3604. A. Except as otherwise provided in subsection I  
22 of this section, an establishment which meets the qualifications  
23 specified in the Oklahoma Quality Jobs Program Act may receive  
24 quarterly incentive payments for a ten-year period from the Oklahoma

1 Tax Commission pursuant to the provisions of the Oklahoma Quality  
2 Jobs Program Act; provided, such an establishment defined or  
3 classified in the NAICS Manual under U.S. Industry No. 711211 (2007  
4 version) may receive quarterly incentive payments for a fifteen-year  
5 period. The amount of such payments shall be equal to the net  
6 benefit rate multiplied by the actual gross payroll of new direct  
7 jobs for a calendar quarter as verified by the Oklahoma Employment  
8 Security Commission.

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

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

- 20 1. Be engaged in a basic industry;
- 21 2. Have an annual gross payroll for new direct jobs projected  
22 by the Department to equal or exceed Two Million Five Hundred  
23 Thousand Dollars (\$2,500,000.00) within three (3) years of the first  
24 complete calendar quarter following the start date; and

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

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

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

11           a. have an annual gross payroll for new direct jobs  
12 projected by the Department to equal or exceed One  
13 Million Five Hundred Thousand Dollars (\$1,500,000.00)  
14 within three (3) years of the first complete calendar  
15 quarter following the start date and make, or which  
16 will make within one (1) year, at least seventy-five  
17 percent (75%) of its total sales, as determined by the  
18 Incentive Approval Committee pursuant to the  
19 provisions of subsection B of Section 3603 of this  
20 title, to out-of-state customers or buyers, to in-  
21 state customers or buyers if the product or service is  
22 resold by the purchaser to an out-of-state customer or  
23 buyer for ultimate use, or to the federal government,  
24 unless the annual gross payroll equals or exceeds Two

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

2 in which case the requirements for purchase of output

3 provided by this subparagraph shall not apply, and

4 b. have a number of full-time-equivalent employees

5 working an average of thirty (30) or more hours per

6 week in new direct jobs equal to or in excess of

7 eighty percent (80%) of the total number of new direct

8 jobs; and

9 2. Division (4) of subparagraph a of paragraph 1 of subsection

10 A of Section 3603 of this title, shall be required to:

11 a. have an annual gross payroll for new direct jobs

12 projected by the Department to equal or exceed One

13 Million Five Hundred Thousand Dollars (\$1,500,000.00)

14 within three (3) years of the first complete calendar

15 quarter following the start date, and

16 b. have a number of full-time-equivalent employees

17 working an average of thirty (30) or more hours per

18 week in new direct jobs equal to or in excess of

19 eighty percent (80%) of the total number of new direct

20 jobs.

21 E. 1. An establishment which locates its principal business

22 activity within a site consisting of at least ten (10) acres which:

23 a. is a federal Superfund removal site,

24

1           b.    is listed on the National Priorities List established  
2                    under Section 9605 of Title 42 of the United States  
3                    Code,

4           c.    has been formally deferred to the state in lieu of  
5                    listing on the National Priorities List, or

6           d.    has been determined by the Department of Environmental  
7                    Quality to be contaminated by any substance regulated  
8                    by a federal or state statute governing environmental  
9                    conditions for real property pursuant to an order of  
10                   the Department of Environmental Quality,

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

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

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

4           a. the site designated by the entity does meet one or  
5 more of the requirements listed in paragraph 1 of this  
6 subsection, and

7           b. the site is being or has been remediated to a level  
8 which is consistent with the intended use of the  
9 property.

10           In making its determination, the Department of Environmental  
11 Quality may rely on existing data and information available to it,  
12 but may also require the applying entity to provide additional data  
13 and information as necessary.

14           4. If authorized by the Department of Environmental Quality  
15 pursuant to paragraph 3 of this subsection, the entity may utilize a  
16 remediated portion of the property for its intended purpose prior to  
17 remediation of the remainder of the site, and shall qualify for  
18 incentive payments based on employment associated with the portion  
19 of the site.

20           F. Except as otherwise provided by subsection G of this  
21 section, for applications submitted on and after June 4, 2003, in  
22 order to qualify to receive incentive payments as authorized by the  
23 Oklahoma Quality Jobs Program Act, in addition to other  
24 qualifications specified herein, an establishment shall be required

1 to pay new direct jobs an average annualized wage which equals or  
2 exceeds:

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

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

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

22 G. 1. As used in this subsection, "opportunity zone" means one  
23 or more census tracts in which, according to the most recent federal  
24 decennial census, at least thirty percent (30%) of the residents

1 have annual gross household incomes from all sources below the  
2 poverty guidelines established by the U.S. Department of Health and  
3 Human Services. An establishment which is otherwise qualified to  
4 receive incentive payments and which locates its principal business  
5 activity in an opportunity zone shall not be subject to the  
6 requirements of subsection F of this section.

7 2. As used in this subsection:

8 a. "negative economic event" means:

9 (1) a man-made disaster or natural disaster as  
10 defined in Section 683.3 of Title 63 of the  
11 Oklahoma Statutes, resulting in the loss of a  
12 significant number of jobs within a particular  
13 county of this state, or

14 (2) an economic circumstance in which a significant  
15 number of jobs within a particular county of this  
16 state have been lost due to an establishment  
17 changing its structure, consolidating with  
18 another establishment, closing or moving all or  
19 part of its operations out of this state, and

20 b. "significant number of jobs" means Local Area  
21 Unemployment Statistics (LAUS) data, as determined by  
22 the Bureau of Labor Statistics, for a county which are  
23 equal to or in excess of five percent (5%) of the  
24 total amount of Local Area Unemployment Statistics

1 (LAUS) data for that county for the calendar year, or  
2 most recent twelve-month period in which employment is  
3 measured, preceding the event.

4 An establishment which is otherwise qualified to receive  
5 incentive payments and which locates in a county in which a negative  
6 economic event has occurred within the eighteen-month period  
7 preceding the start date shall not be subject to the requirements of  
8 subsection F of this section; provided, an establishment shall not  
9 be eligible to receive incentive payments based upon a negative  
10 economic event with respect to jobs that are transferred from one  
11 county of this state to another.

12 H. The Department shall determine if the applicant is qualified  
13 to receive incentive payments.

14 I. If the applicant is determined to be qualified by the  
15 Department and is not subject to the provisions of subparagraph d of  
16 paragraph 7 of subsection A of Section 3603 of this title, the  
17 Department shall conduct a cost/benefit analysis to determine the  
18 estimated net direct state benefits and the net benefit rate  
19 applicable for a ten-year period beginning with the first complete  
20 calendar quarter following the start date and to estimate the amount  
21 of gross payroll for a ten-year period beginning with the first  
22 complete calendar quarter following the start date or for a fifteen-  
23 year period for an establishment defined or classified in the NAICS  
24 Manual under U.S. Industry No. 711211 (2007 version). In conducting

1 such cost/benefit analysis, the Department shall consider  
2 quantitative factors, such as the anticipated level of new tax  
3 revenues to the state along with the added cost to the state of  
4 providing services, and such other criteria as deemed appropriate by  
5 the Department. In no event shall incentive payments, cumulatively,  
6 exceed the estimated net direct state benefits, except for  
7 applicants subject to the provisions of subparagraph d of paragraph  
8 7 of subsection A of Section 3603 of this title.

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

1 established pursuant to this section and Sections 3603 and 3606 of  
2 this title and within the limitations contained in the Oklahoma  
3 Quality Jobs Program Act, which existed at the time of such  
4 approval. An establishment described in this subsection shall be  
5 required to repay all incentive payments received under the Oklahoma  
6 Quality Jobs Program Act if the establishment is determined by the  
7 Oklahoma Tax Commission to no longer have business operations in the  
8 state within three (3) years from the beginning of the calendar  
9 quarter for which the first incentive payment claim is filed.

10 K. A municipality with a population of less than one hundred  
11 thousand (100,000) persons in which an establishment eligible to  
12 receive quarterly incentive payments pursuant to the provisions of  
13 this section is located may file a claim with the Tax Commission for  
14 up to twenty-five percent (25%) of the amount of such payment. The  
15 amount of such claim shall not exceed amounts paid by the  
16 municipality for direct costs of municipal infrastructure  
17 improvements to provide water and sewer service to the  
18 establishment. Such claim shall not be approved by the Tax  
19 Commission unless the municipality and the establishment have  
20 entered into a written agreement for such claims to be filed by the  
21 municipality prior to submission of the application of the  
22 establishment pursuant to the provisions of this section. If such  
23 claim is approved, the amount of the payment to the establishment  
24 made pursuant to the provisions of Section 3606 of this title shall

1 be reduced by the amount of the approved claim by the municipality  
2 and the Tax Commission shall issue a warrant to the municipality in  
3 the amount of the approved claim in the same manner as warrants are  
4 issued to qualifying establishments.

5 SECTION 3. AMENDATORY 68 O.S. 2011, Section 3606, as  
6 amended by Section 2, Chapter 308, O.S.L. 2012 (68 O.S. Supp. 2012,  
7 Section 3606), is amended to read as follows:

8 Section 3606. A. As soon as practicable after the end of the  
9 first complete calendar quarter following the start date, the  
10 establishment shall file a claim for the payment with the Oklahoma  
11 Tax Commission and shall specify the actual number and gross payroll  
12 of new direct jobs for the establishment for the calendar quarter.  
13 The Tax Commission shall verify the actual gross payroll for new  
14 direct jobs for the establishment for such calendar quarter. If the  
15 Tax Commission is not able to provide such verification utilizing  
16 all available resources, the Tax Commission may request such  
17 additional information from the establishment as may be necessary or  
18 may request the establishment to revise its claim. An establishment  
19 may file for an extension of the initial filing date with the  
20 Oklahoma Department of Commerce. Any such extension shall be based  
21 solely upon an extraordinary adverse business circumstance which  
22 prevented the establishment from hiring the new direct jobs as  
23 projected. If an establishment fails to file claims as required by  
24 this section, it shall forfeit the right to receive any incentive

1 payments after three (3) years from the start date. If an  
2 establishment has filed at least one ~~(1)~~ claim pursuant to this  
3 section but fails to file another claim within two (2) years of the  
4 most recent claim, the Tax Commission, after consulting with the  
5 Department of Commerce, may dismiss the establishment from the  
6 program, forfeiting the establishment's right to receive incentive  
7 payments based on that contract.

8 B. If the actual verified gross payroll for four (4)  
9 consecutive calendar quarters does not equal or exceed the  
10 applicable total required by Section 3604 of this title within three  
11 (3) years of the start date, or does not equal or exceed the  
12 applicable total required by Section 3604 of this title at any other  
13 time during the ten-year period after the start date or during the  
14 fifteen-year period after the start date for establishments defined  
15 or classified in the NAICS Manual under U.S. Industry No. 711211  
16 (2007 version), the incentive payments shall not be made and shall  
17 not be resumed until such time as the actual verified gross payroll  
18 equals or exceeds the amounts specified in Section 3604 of this  
19 title. If an establishment fails to achieve the required gross  
20 payroll within three (3) years of the start date, the establishment  
21 shall not make a new or renewal application for incentive payments  
22 authorized pursuant to the Oklahoma Quality Jobs Program Act for a  
23 period of twelve (12) months from the last day of the last month of  
24

1 the three-year period during which the required gross payroll amount  
2 was not achieved.

3 C. If the average annualized wage required for an establishment  
4 does not equal or exceed the amount specified in paragraph 1 or 2 of  
5 subsection F of Section 3604 of this title during any calendar  
6 quarter, the incentive payments shall not be made and shall not be  
7 resumed until such time as such requirements are met.

8 D. In no event shall incentive payments, cumulatively, exceed  
9 the estimated net direct state benefits, except for establishments  
10 subject to the provisions of subparagraph d of paragraph 7 of  
11 subsection A of Section 3603 of this title.

12 E. An establishment that has qualified pursuant to Section 3604  
13 of this title may receive payments only in accordance with the  
14 provisions of the law under which it initially applied and was  
15 approved. If an establishment that is receiving incentive payments  
16 expands, it may apply for additional incentive payments based on the  
17 gross payroll anticipated from the expansion only, pursuant to  
18 Section 3604 of this title. Provided, an establishment which has  
19 suffered an extraordinary adverse business circumstance, as  
20 certified by the Incentive Approval Committee, may be allowed to  
21 voluntarily withdraw from the Oklahoma Quality Jobs Program, repay  
22 to the Tax Commission the total amount of incentive payments  
23 received pursuant to the provisions of this section, plus interest  
24 at the rate specified in Section 727.1 of Title 12 of the Oklahoma

1 Statutes, and reapply to the Department for a new incentive contract  
2 if the establishment qualifies pursuant to the provisions of the  
3 Oklahoma Quality Jobs Program Act. Any funds received by the Tax  
4 Commission pursuant to the provisions of this subsection shall be  
5 apportioned in the manner that income tax revenues are apportioned.

6 F. An establishment that is receiving incentive payments may  
7 not apply for additional incentive payments for any new projects  
8 until twelve (12) quarters after receipt of the first incentive  
9 payment, or until the establishment's actual verified gross payroll  
10 for new direct jobs equals or exceeds Two Million Five Hundred  
11 Thousand Dollars (\$2,500,000.00) during any four consecutive-  
12 calendar-quarter period, whichever comes first. After meeting the  
13 requirements of this subsection, an establishment may apply for  
14 additional incentive payments based upon the gross payroll  
15 anticipated from an expansion only.

16 G. As soon as practicable after verification of the actual  
17 gross payroll as required by this section and except as otherwise  
18 provided by subsection K of Section 3604 of this title, the Tax  
19 Commission shall issue a warrant to the establishment in the amount  
20 of the net benefit rate multiplied by the actual gross payroll as  
21 determined pursuant to subsection A of this section for the calendar  
22 quarter.

23 SECTION 4. AMENDATORY 68 O.S. 2011, Section 3914, is  
24 amended to read as follows:

1 Section 3914. A. An establishment which meets the  
2 qualifications specified in the 21st Century Quality Jobs Incentive  
3 Act may receive quarterly incentive payments for a ten-year period  
4 from the Oklahoma Tax Commission pursuant to the provisions of this  
5 act, as verified by the Tax Commission, in an amount equal to:

6 1. The gross payroll multiplied by the initial net benefit rate  
7 until such time as the establishment creates ten new direct jobs;  
8 or

9 2. The gross payroll multiplied by the fulfillment net benefit  
10 rate after such time as the establishment created and maintains ten  
11 new direct jobs.

12 B. In order to receive incentive payments, an establishment  
13 shall apply to the Oklahoma Department of Commerce. The application  
14 shall be on a form prescribed by the Department and shall contain  
15 such information as may be required by the Department to determine  
16 if the applicant is qualified. The establishment may apply for an  
17 effective date for a project, which shall not be more than twelve  
18 (12) months from the date the application is submitted to the  
19 Department.

20 C. Before approving an application for incentive payments, the  
21 Department must first determine that the applicant meets the  
22 following requirements:

23 1. Be engaged in a basic industry as defined in the 21st  
24 Century Quality Jobs Incentive Act;

1        2. Will hire at least ten full-time employees in this state  
2 within twelve (12) quarters of the date of application;

3        3. Will pay the individuals it employs in new direct jobs an  
4 average annualized wage which equals or exceeds ~~the lower of three~~  
5 ~~hundred percent (300%) of the average of Oklahoma county wages or~~  
6 three hundred percent (300%) of the average county wage for the  
7 county in which the applicant is located as that percentage is  
8 determined by the Oklahoma State Data Center based on the most  
9 recent U.S. Department of Commerce data. For purposes of this  
10 paragraph, health care premiums paid by the applicant for  
11 individuals in new direct jobs shall not be included in the  
12 annualized wage. Provided, no average wage requirement shall exceed  
13 Ninety-four Thousand Dollars (\$94,000.00) in any county. This  
14 maximum wage threshold shall be indexed and modified from time to  
15 time based on the latest Consumer Price Index year-to-date percent  
16 change release as of the date of the annual average county wage data  
17 release from the Bureau of Economic Analysis of the U.S. Department  
18 of Commerce;

19        4. Has a basic health benefit plan which, as determined by the  
20 Department, meets the elements established under divisions (1)  
21 through (7) of subparagraph b of paragraph 1 of subsection A of  
22 Section 3603 of Title 68 of the Oklahoma Statutes and which will be  
23 offered to individuals within twelve (12) months of employment in a  
24 new direct job;

1           5. Has not received incentive payments under the Small Employer  
2 Quality Jobs Program Act, the Saving Quality Jobs Act or the Former  
3 Military Facility Development Act; and

4           6. Is not qualified for approval of an application for  
5 incentive payments under the Small Employer Quality Jobs Program  
6 Act, the Saving Quality Jobs Act or the Former Military Facility  
7 Development Act.

8           D. The Oklahoma Department of Commerce shall determine if an  
9 applicant is qualified to receive the incentive payment. Upon  
10 qualifying the applicant, the Department shall notify the Tax  
11 Commission and shall provide it with a copy of the contract and  
12 approval which shall provide the number of persons employed by the  
13 applicant upon the date of approval and the maximum total incentives  
14 which may be paid to the applicant during the ten-year period. The  
15 Tax Commission may require the qualified establishment to submit  
16 additional information as may be necessary to administer the  
17 provisions of this act. The approved establishment shall report to  
18 the Tax Commission quarterly to show its continued eligibility for  
19 incentive payments, as provided in Section 3905 of Title 68 of the  
20 Oklahoma Statutes. Establishments may be audited by the Tax  
21 Commission to verify such eligibility. Once the establishment is  
22 approved, an agreement shall be deemed to exist between the  
23 establishment and the State of Oklahoma, requiring incentive  
24 payments to be made for a ten-year period as long as the

1 establishment retains its eligibility and within the limitations of  
2 this act as it existed at the time of such approval.

3 SECTION 5. This act shall become effective November 1, 2013.

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