

1 **SENATE FLOOR VERSION**

2 March 26, 2013

3 **AS AMENDED**

4 ENGROSSED HOUSE

5 BILL NO. 1416

6 By: Hall, Hoskin and Sherrer of  
7 the House

8 and

9 Mazzei, Loveless and  
10 Brinkley of the Senate

11 **[ revenue and taxation - Oklahoma Quality Jobs**  
12 **Program Act - benefit rate computation - effective**  
13 **date ]**

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

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

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

20 1. a. "Basic industry" means:

- 21 (1) those manufacturing activities defined or  
22 classified in the NAICS Manual under Industry  
23 Sector Nos. 31, 32 and 33, Industry Group No.  
24 5111 or Industry No. 11331,

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

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

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

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

1 amended, and federal regulations adopted  
2 pursuant thereto, and

3 (d) the facility is constructed on or after July  
4 1, 1996,

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

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

21 (5) distribution centers for retail or wholesale  
22 businesses defined or classified in the NAICS  
23 Manual under Sector No. 42, if forty percent  
24

1 (40%) or more of the inventory processed through  
2 such warehouse is shipped out-of-state,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (10) those activities related to extraction of crude  
8 petroleum and natural gas defined or classified  
9 in the NAICS Manual under Industry Group No. 2111  
10 or 213111, subject to the limitations provided in  
11 paragraph 3 of this subsection and paragraph 3 of  
12 subsection B of this section,

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

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

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

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

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

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

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

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

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

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

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

1 within three (3) years from the beginning of the calendar quarter  
2 for which the first incentive payment claim is filed~~;~~;

3 3. "New direct job":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (2) in a county in which:

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

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

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

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

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

22 g. the net benefit rate shall not exceed six percent (6%)  
23 in connection with an establishment which employs  
24 United States military veterans in at least ten

1           percent (10%) of its gross payroll. The net benefit  
2           rate for an establishment which employs United States  
3           military veterans in at least ten percent (10%) of its  
4           payroll shall not be lower than five percent (5%).

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

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

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

1 seq. of this title, by the Department subject to the  
2 following conditions:

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

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

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

23 (4) the entity has not previously had a subunit  
24 determined to be an establishment pursuant to

1                   this section; provided, the restriction set forth  
2                   in this division shall not apply to subunits  
3                   which qualify pursuant to the provisions of  
4                   subparagraph b of paragraph 7 of this subsection,  
5                   and

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

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

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

22                  11. "Qualified federal contract" means a contract between an  
23                  agency or instrumentality of the United States government, including  
24                  but not limited to the Department of Defense or any branch of the

1 United States Armed Forces, but exclusive of any contract performed  
2 for the Federal Emergency Management Agency as a direct result of a  
3 natural disaster declared by the Governor or the President of the  
4 United States with respect to damage to property located in Oklahoma  
5 or loss of life or personal injury to persons in Oklahoma, and a  
6 lawfully recognized business entity, whether or not the business  
7 entity is organized under the laws of the State of Oklahoma or  
8 whether or not the principal place of business of the business  
9 entity is located within the State of Oklahoma, for the performance  
10 of services, including but not limited to testing, research,  
11 development, consulting or other services in a basic industry, if  
12 the contract involves the performance of such services performed on  
13 or after July 1, 2009, by the employees of the business entity  
14 within the State of Oklahoma or if the contract involves the  
15 performance of such services performed on or after July 1, 2009, by  
16 employees of a lawfully recognized business entity that is a  
17 subcontractor of the business entity with which the prime contract  
18 has been formed. A qualified federal contract described in this  
19 paragraph shall not qualify unless both the qualified federal  
20 contractor and any subcontractors originally involved in the work or  
21 added subsequently during the period of performance verify to the  
22 qualified federal contractor verifier that it offers, or will offer  
23 within one hundred eighty (180) days of employment of its respective  
24 employees, a basic health benefits plan as described in subparagraph

1 b of paragraph 1 of this subsection to individuals who perform  
2 qualified labor hours in this state;

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

8 a. established multiyear classified and unclassified  
9 indefinite-delivery/indefinite-quantity federal  
10 contract vehicles in excess of Fifty Million Dollars  
11 (\$50,000,000.00),

12 b. current capability to sponsor and maintain personnel  
13 security clearances and authorized by the federal  
14 government to handle and perform classified work up to  
15 the Top Secret Sensitive Compartmented Information  
16 levels,

17 c. at least one on-site federally certified Sensitive  
18 Compartmented Information Facility,

19 d. on-site secure mass data storage complex with the  
20 capability of isolating, segregating and protecting  
21 corporate proprietary and classified information,

22 e. trusted agent status by maintaining no ownership of,  
23 vested interest in, nor royalty production from any  
24 intellectual property,

- 1 f. at least one hundred thousand (100,000) square feet of  
2 configurable laboratory and support space,  
3 g. the direct access to restricted air space through a  
4 formalized memorandum of agreement with the Department  
5 of Defense,  
6 h. at least five thousand (5,000) acres available for  
7 outdoor testing and training facilities, and  
8 i. the ability to house state-of-the-art surety  
9 facilities, including chemical, biological,  
10 radiological, explosives, electronics, and unmanned  
11 systems laboratories and ranges;

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

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

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

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

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

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

- 11           a. maintaining a prime contract with the federal  
12 government as defined in paragraph 11 of this  
13 subsection,
- 14           b. providing notice of intent to apply to the Department  
15 within one hundred eighty (180) days of the effective  
16 date of this act or one hundred eighty (180) days of  
17 the date of the award of a qualified federal contract  
18 or award of a new qualified subcontract under an  
19 existing qualified federal contract, and
- 20           c. adding substantively to the contract by performing at  
21 least eight percent (8%) of the total labor whether  
22 qualified and nonqualified labor as determined by the  
23 federal contractor verifier on a direct contract or  
24 individual task order or delivery order on an

1           indefinite-delivery/indefinite-quantity or other  
2           blanket contract vehicle.

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

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

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

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

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

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

17          SECTION 2. This act shall become effective November 1, 2013.

18          COMMITTEE REPORT BY: COMMITTEE ON FINANCE  
19          March 26, 2013 - DO PASS AS AMENDED  
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