

1 2. "Estimated indirect state benefits" means the indirect new
2 tax revenues projected by the Oklahoma Department of Commerce to
3 accrue to the state, including, but not limited to, revenue
4 generated from ancillary support jobs directly related to the
5 primary business;

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

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

16 4. "Estimated indirect state costs" means the costs projected
17 by the Department to accrue to the state as a result of new indirect
18 jobs. Such costs shall include, but not be limited to, costs
19 enumerated in subparagraphs a, b, c and d of paragraph 3 of this
20 subsection.

21 B. A for-profit business entity that would otherwise qualify to
22 receive or benefit from proceeds from the issuance of obligations by
23 the Authority from the Economic Development Pool shall be required
24 to obtain a determination letter from the Oklahoma Department of

1 Commerce that the business activity of the entity will result in a
2 positive net benefit rate, to be computed by the Department of
3 Commerce using a methodology which provides for the analysis of
4 estimated direct state benefits, estimated indirect state benefits,
5 estimated direct state costs and estimated indirect state costs.
6 The Oklahoma Department of Commerce shall use such information as it
7 determines to be relevant for the analysis required by this
8 subsection including, but not limited to, the type of business
9 activity in which the entity is engaged or will be engaged, amount
10 of capital investment, type of assets acquired or utilized by the
11 business entity, economic effect of the business activity within the
12 relevant geographic region and such other factors as the Department
13 determines to be relevant. The Oklahoma Department of Commerce may
14 use information regarding the business entity alone or in
15 conjunction with relevant information regarding other business
16 activity in a geographically relevant area surrounding the principal
17 business location of the primary business entity in order to perform
18 the computation of the net benefit rate. If the result of the
19 analysis is a positive net benefit rate, the business entity shall
20 be allowed to capture withholding taxes associated with new jobs or
21 with existing jobs as otherwise provided by ~~this act~~ the Oklahoma
22 Community Economic Development Pooled Finance Act. The Oklahoma
23 Department of Commerce shall transmit a determination letter to the
24 authorized representative of the business entity and shall also

1 transmit a copy of the determination letter to the Oklahoma Tax
2 Commission and to the Oklahoma Development Finance Authority,
3 regardless of whether the result is a positive or negative net
4 benefit rate. The Oklahoma Development Finance Authority shall not
5 allow a business entity to use captured withholding tax revenues for
6 purposes of any pooled financing otherwise authorized by ~~this act~~
7 the Oklahoma Community Economic Development Pooled Finance Act
8 unless the Oklahoma Department of Commerce has previously
9 transmitted a determination letter that reveals a positive net
10 benefit rate for the business entity.

11 C. Any for-profit business entity that receives proceeds from
12 the issuance of any obligations by the Authority from the Economic
13 Development Pool may be required by the applicable local government
14 entity to enter into such agreements as may be required between the
15 entity, the local government entity, the Authority and the Oklahoma
16 Tax Commission to provide for the segregation of withholding taxes
17 attributable to new direct jobs created or existing payroll retained
18 by the for-profit business entity in connection with the asset or
19 assets acquired, constructed or improved with such proceeds.

20 D. The amount of withholding taxes subject to the provisions of
21 this section shall, together with other revenue sources or
22 commitments and undertakings by the for-profit business entity or
23 third parties, be sufficient to make payment of any required
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1 principal, interest, adequate reserves or other authorized costs for
2 the borrowing by the Authority.

3 E. The Authority shall have such power of approval regarding
4 the amount and duration of withholding tax segregation pursuant to
5 the provisions of this section in order to ensure payment of its
6 obligations and to promote the marketability of such obligations.

7 F. The Authority shall obtain information from the for-profit
8 business entity as may be required in order to determine the
9 necessary amount of segregated withholding taxes attributable to new
10 direct jobs or existing payroll.

11 G. The Oklahoma Tax Commission shall determine with respect to
12 the withholding taxes attributable to the income of employees
13 engaged in new direct jobs or existing jobs for a for-profit
14 business entity participating in a pooled financing pursuant to the
15 Oklahoma Community Economic Development Pooled Finance Act the
16 amount of such withholding taxes required to be deposited to the
17 credit of the Community Economic Development Pooled Finance
18 Revolving Fund.

19 H. The Oklahoma Tax Commission shall make a deposit in the
20 Community Economic Development Pooled Finance Revolving Fund in
21 accordance with any applicable agreement entered into by a for-
22 profit business entity participating in a pooled financing pursuant
23 to the Oklahoma Community Economic Development Pooled Finance Act.

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1 I. No for-profit business entity that benefits from proceeds of
2 obligations issued by the Authority from the Economic Development
3 Pool may receive or continue to receive incentive payments pursuant
4 to the Oklahoma Quality Jobs Program Act ~~or claim any investment tax~~
5 ~~credits otherwise authorized pursuant to Section 2357.4 of Title 68~~
6 ~~of the Oklahoma Statutes~~ during the period of time that any
7 withholding taxes attributable to the payroll of such entity are
8 being paid to the Community Economic Development Pooled Finance
9 Revolving Fund or in any manner used for the payment of principal,
10 interest or other costs associated with any obligations issued by
11 the Authority pursuant to the provisions of ~~this act~~ the Oklahoma
12 Community Economic Development Pooled Finance Act.

13 J. A for-profit business entity that benefits from proceeds of
14 obligations issued by the Oklahoma Development Finance Authority
15 from the Economic Development Pool may claim investment tax credits
16 otherwise authorized pursuant to Section 2357.4 of Title 68 of the
17 Oklahoma Statutes during the period of time that any withholding
18 taxes attributable to the payroll of such entity are being paid to
19 the Community Economic Development Pooled Finance Revolving Fund if
20 the business entity meets the following requirements on or after the
21 effective date of this act:

22 1. Makes a capital investment of no less than Five Hundred
23 Million Dollars (\$500,000,000.00); and

24 2. Creates two thousand five hundred (2,500) new direct jobs.

1 K. Upon approval by the Authority pursuant to subsection J of
2 this section, the Oklahoma Development Finance Authority and the
3 Oklahoma Department of Commerce shall enter into an agreement with
4 the company that sets forth the conditions for payment of monies
5 from the Community Economic Development Pooled Finance Revolving
6 Fund. The agreement must include:

7 1. The total amount of funds and tax credits awarded;

8 2. The performance conditions that must be met to obtain the
9 award including, but not limited to, net new employment in the
10 state, average salary, and total capital investment;

11 3. If appropriate, a baseline of current service and measure of
12 enhanced capability;

13 4. The methodology of validating performance;

14 5. The schedule of payments from the fund, and claw-back
15 provisions for failure to meet performance conditions; and

16 6. A requirement that no monies paid from the Community
17 Economic Development Pooled Finance Revolving Fund shall be used by
18 a recipient or any other person or entity for purposes of any
19 political contribution to or on behalf of any candidate or for the
20 support of or opposition to any measure including, but not limited
21 to, an initiative petition or referendum.

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

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4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated
5 03/26/2018 - DO PASS, As Coauthored.

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