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AS AMENDED

By: Fetgatter, Hall, Cockroft
and West (Josh) of the
House

Bice of the Senate

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1 2. Any amounts appropriated by the Legislature to the fund;

2 3. Interest earned on the investment of money in the fund; ~~and~~

3 4. Gifts, grants, and other donations received for the fund;

4 and

5 5. Five percent (5%) of all funds paid by the Tax Commission to

6 establishments that execute contracts for payment of incentives

7 pursuant to the Oklahoma Quality Jobs Program Act and the 21st

8 Century Quality Jobs Incentive Act if the contract is executed on or

9 after the effective date of this act.

10 B. All monies accruing to the credit of the fund are hereby

11 appropriated and may be budgeted and expended by the Governor for

12 the purposes of economic development and related infrastructure

13 development in instances in which expenditure of such funds would

14 likely be a determining factor in locating a high-impact business

15 project or facility in Oklahoma or in retaining such project or

16 facility within the state. Expenditures from the fund shall be made

17 upon warrants issued by the State Treasurer against claims filed as

18 prescribed by law with the Director of the Office of Management and

19 Enterprise Services for approval and payment.

20 C. In order to qualify for any funds from the Oklahoma Quick

21 Action Closing Fund, the establishment making application shall be

22 engaged in a business activity described by a North American

23 Industry Classification System (NAICS) Code used to define

24 eligibility for incentive payments from the Oklahoma Quality Jobs

1 Program Act as defined in Section 3603 of Title 68 of the Oklahoma
2 Statutes or a business activity described by Section 3603 of Title
3 68 of the Oklahoma Statutes or be engaged in a "basic industry" used
4 to define eligibility for incentive payments from the 21st Century
5 Quality Jobs Incentive Act as prescribed by Section 3913 of Title 68
6 of the Oklahoma Statutes.

7 D. The Governor shall not approve payments from the Oklahoma
8 Quick Action Closing Fund unless the Department of Commerce has
9 conducted a complete analysis of the potential impact of the
10 applicant's business activity which shall include, but not be
11 limited to:

12 1. The number of jobs to be created by a new business
13 establishment;

14 2. The number of jobs to be retained by an existing business
15 establishment;

16 3. The average salary of jobs to be created by a new
17 establishment;

18 4. The average salary of jobs to be retained by an existing
19 business establishment;

20 5. The total capital investment to be made by the business
21 establishment;

22 6. The likelihood of other business establishments locating
23 within the same vicinity or within the state as a result of the
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1 business activity to be conducted by the entity to receive payments
2 from the Oklahoma Quick Action Closing Fund;

3 7. The impact on the economy of the area or community in which
4 the business activity of the applicant is or will be conducted; and

5 8. Such other factors as the Governor and the Department of
6 Commerce determine to be relevant.

7 E. The Oklahoma Department of Commerce shall administer the
8 Oklahoma Quick Action Closing Fund, and expenditures from the fund
9 shall be recommended by the Director of the Oklahoma Department of
10 Commerce to the Governor after a thorough evaluation of selected
11 projects or facilities. The Director of the Oklahoma Department of
12 Commerce shall only recommend expenditures that the Director
13 determines are expected to result in a net economic benefit to the
14 state through the following:

15 1. The creation of new jobs which offer a basic health benefit
16 plan, as defined in the Oklahoma Quality Jobs Program Act;

17 2. The maintenance of existing jobs which are at a risk for
18 termination;

19 3. Investment in new real property, plant or equipment or in
20 the improvement or retooling of existing plant or equipment; or

21 4. Additional revenues in either ad valorem, income or sales
22 and use taxes.

23 F. The Oklahoma Department of Commerce shall develop rules for
24 the process of reviewing proposed expenditures from the Oklahoma

1 Quick Action Closing Fund and for the determination of whether or
2 not proposed expenditures meet the criteria identified in subsection
3 E of this section. Criteria shall include requirements for economic
4 impact, local participation in the project, capital investment and
5 average wage thresholds.

6 G. Upon receipt of an evaluation that recommends an expenditure
7 from the Oklahoma Quick Action Closing Fund from the Director of the
8 Oklahoma Department of Commerce, the Governor shall provide the
9 evaluation and recommendation to the President Pro Tempore of the
10 State Senate and the Speaker of the Oklahoma House of
11 Representatives before giving final approval for the expenditure on
12 the project. The Executive Office of the Governor shall recommend
13 final approval of an expenditure on a project pursuant to
14 consultation with the President Pro Tempore of the State Senate and
15 the Speaker of the Oklahoma House of Representatives.

16 H. Upon approval by the Governor, the Oklahoma Department of
17 Commerce shall enter into an agreement that sets forth the
18 conditions for payment of monies from the Oklahoma Quick Action
19 Closing Fund. The agreement must include:

- 20 1. The total amount of funds awarded;
- 21 2. The performance conditions that must be met to obtain the
22 award, including, but not limited to, net new employment in the
23 state, average salary, and total capital investment;
- 24

1 3. If appropriate, a baseline of current service and measure of
2 enhanced capability;

3 4. The methodology of validating performance;

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

6 6. A requirement that no monies paid from the Oklahoma Quick
7 Action Closing Fund shall be used by a recipient or any other person
8 or entity for purposes of any political contribution to or on behalf
9 of any candidate or for the support of or opposition to any measure
10 including but not limited to an initiative petition or referendum.

11 I. The Department of Commerce shall make available on its
12 website or other website dedicated for this purpose a complete
13 disclosure of all payments made from the Oklahoma Quick Action
14 Closing Fund. The disclosure shall include a description of the
15 expenditures made by the business establishment with the payments
16 made from the fund. No proprietary information of the business
17 establishment shall be subject to the requirements of this
18 subsection.

19 J. If any or all of the amount to be awarded is used to build a
20 capital improvement:

21 1. The funds used for the capital improvement shall be deemed
22 to be held in trust for the benefit of the state and shall be
23 considered as a priority claim for purposes of federal bankruptcy
24 law; and

1 2. If the capital improvement is sold, the recipient of the
2 award shall:

3 a. repay the state the money awarded to pay for the
4 capital improvement, with interest at the rate and
5 according to the other terms provided by the
6 agreement, and

7 b. share with the state a proportionate amount of any
8 profit realized from the sale.

9 K. If, as of the date certain provided in the agreement, the
10 award recipient has not used monies awarded for the intended
11 purposes, the recipient shall repay that amount and any related
12 interest to the state at the agreed rate and on the agreed terms and
13 any such amounts shall be deemed to be held in trust for the benefit
14 of the state and shall be considered as a priority claim for
15 purposes of federal bankruptcy law.

16 L. The provisions of this act shall cease to have the force and
17 effect of law on the July 1 date of the sixth fiscal year after the
18 first fiscal year for which any funds are deposited to, appropriated
19 to, apportioned to or otherwise transferred to the Oklahoma Quick
20 Action Closing Fund.

21 SECTION 2. AMENDATORY 68 O.S. 2011, Section 3604, as
22 last amended by Section 22, Chapter 4, O.S.L. 2014 (68 O.S. Supp.
23 2017, Section 3604), is amended to read as follows:
24

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

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

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

- 24 1. Be engaged in a basic industry;

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

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

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

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

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

1 state customers or buyers if the product or service is
2 resold by the purchaser to an out-of-state customer or
3 buyer for ultimate use, or to the federal government,
4 unless the annual gross payroll equals or exceeds Two
5 Million Five Hundred Thousand Dollars (\$2,500,000.00)
6 in which case the requirements for purchase of output
7 provided by this subparagraph shall not apply, and

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

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

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

- 20 b. have a number of full-time-equivalent employees
21 working an average of thirty (30) or more hours per
22 week in new direct jobs equal to or in excess of
23 eighty percent (80%) of the total number of new direct
24 jobs.

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

3 a. is a federal Superfund removal site,

4 b. is listed on the National Priorities List established
5 under Section 9605 of Title 42 of the United States
6 Code,

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

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

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

17 2. In order to qualify for the incentive payments pursuant to
18 this subsection, the establishment shall conduct the activity
19 resulting in at least fifty percent (50%) of its Oklahoma taxable
20 income or adjusted gross income, as determined under Section 2358 of
21 this title, whether from the sale of products or services or both
22 products and services, at the physical location which has been
23 determined not to comply with the federal or state statutes
24 described in this subsection with respect to environmental

1 conditions for real property. The establishment shall be subject to
2 all other requirements of the Oklahoma Quality Jobs Program Act
3 other than the exemptions provided by this subsection.

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

7 a. the site designated by the entity does meet one or
8 more of the requirements listed in paragraph 1 of this
9 subsection, and

10 b. the site is being or has been remediated to a level
11 which is consistent with the intended use of the
12 property.

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

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

23 F. Except as otherwise provided by subsection G of this
24 section, for applications submitted on and after June 4, 2003, in

1 order to qualify to receive incentive payments as authorized by the
2 Oklahoma Quality Jobs Program Act, in addition to other
3 qualifications specified herein, an establishment shall be required
4 to pay new direct jobs an average annualized wage which equals or
5 exceeds:

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

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

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

1 G. 1. As used in this subsection, "opportunity zone" means one
2 or more census tracts in which, according to the most recent Federal
3 Decennial Census, at least thirty percent (30%) of the residents
4 have annual gross household incomes from all sources below the
5 poverty guidelines established by the U.S. Department of Health and
6 Human Services. An establishment which is otherwise qualified to
7 receive incentive payments and which locates its principal business
8 activity in an opportunity zone shall not be subject to the
9 requirements of subsection F of this section.

10 2. As used in this subsection:

11 a. "negative economic event" means:

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

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

23 b. "significant number of jobs" means Local Area

24 Unemployment Statistics (LAUS) data, as determined by

1 the Bureau of Labor Statistics, for a county which are
2 equal to or in excess of five percent (5%) of the
3 total amount of Local Area Unemployment Statistics
4 (LAUS) data for that county for the calendar year, or
5 most recent twelve-month period in which employment is
6 measured, preceding the event.

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

15 H. The Department shall determine if the applicant is qualified
16 to receive incentive payments.

17 I. If the applicant is determined to be qualified by the
18 Department and is not subject to the provisions of subparagraph d of
19 paragraph 7 of subsection A of Section 3603 of this title, the
20 Department shall conduct a cost/benefit analysis to determine the
21 estimated net direct state benefits and the net benefit rate
22 applicable for a ten-year period beginning with the first complete
23 calendar quarter following the start date and to estimate the amount
24 of gross payroll for a ten-year period beginning with the first

1 complete calendar quarter following the start date or for a fifteen-
2 year period for an establishment defined or classified in the NAICS
3 Manual under U.S. Industry No. 711211 (2007 version). In conducting
4 such cost/benefit analysis, the Department shall consider
5 quantitative factors, such as the anticipated level of new tax
6 revenues to the state along with the added cost to the state of
7 providing services, and such other criteria as deemed appropriate by
8 the Department. In no event shall incentive payments, cumulatively,
9 exceed the estimated net direct state benefits, except for
10 applicants subject to the provisions of subparagraph d of paragraph
11 7 of subsection A of Section 3603 of this title.

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

1 be deemed to exist between the establishment and the State of
2 Oklahoma, requiring the continued incentive payment to be made as
3 long as the establishment retains its eligibility as defined in and
4 established pursuant to this section and Sections 3603 and 3606 of
5 this title and within the limitations contained in the Oklahoma
6 Quality Jobs Program Act, which existed at the time of such
7 approval. An establishment described in this subsection 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 K. A municipality with a population of less than one hundred
14 thousand (100,000) persons in which an establishment eligible to
15 receive quarterly incentive payments pursuant to the provisions of
16 this section is located may file a claim with the Tax Commission for
17 up to twenty-five percent (25%) of the amount of such payment. The
18 amount of such claim shall not exceed amounts paid by the
19 municipality for direct costs of municipal infrastructure
20 improvements to provide water and sewer service to the
21 establishment. Such claim shall not be approved by the Tax
22 Commission unless the municipality and the establishment have
23 entered into a written agreement for such claims to be filed by the
24 municipality prior to submission of the application of the

1 establishment pursuant to the provisions of this section. If such
2 claim is approved, the amount of the payment to the establishment
3 made pursuant to the provisions of Section 3606 of this title shall
4 be reduced by the amount of the approved claim by the municipality
5 and the Tax Commission shall issue a warrant to the municipality in
6 the amount of the approved claim in the same manner as warrants are
7 issued to qualifying establishments.

8 L. For any contract executed by an establishment on or after
9 the effective date of this act, five percent (5%) of the quarterly
10 incentive payment amount shall be transferred by the Oklahoma Tax
11 Commission to the Oklahoma Quick Action Closing Fund.

12 SECTION 3. AMENDATORY 68 O.S. 2011, Section 3904, as
13 amended by Section 28, Chapter 227, O.S.L. 2013 (68 O.S. Supp. 2017,
14 Section 3904), is amended to read as follows:

15 Section 3904. A. An establishment which meets the
16 qualifications specified in the Small Employer Quality Jobs
17 Incentive Act may receive quarterly incentive payments for a seven-
18 year period from the Oklahoma Tax Commission pursuant to the
19 provisions of the Small Employer Quality Jobs Incentive Act in an
20 amount equal to the net benefit rate multiplied by the actual gross
21 taxable payroll of new direct jobs as verified by the Tax
22 Commission.

23 B. In order to receive incentive payments, an establishment
24 shall apply to the Oklahoma Department of Commerce. The application

1 shall be on a form prescribed by the Department and shall contain
2 such information as may be required by the Department to determine
3 if the applicant is qualified. The establishment may apply for an
4 effective date for a project, which shall not be more than twelve
5 (12) months from the date the application is submitted to the
6 Department.

7 C. Before approving an application for incentive payments, the
8 Department must first determine that the applicant meets the
9 following requirements:

10 1. Be engaged in a basic industry;

11 2. Has no more than ninety full-time employees in this state on
12 the date of application nor an average of more than ninety full-time
13 employees in this state during the four calendar quarters
14 immediately preceding the date of application;

15 3. Has a projected minimum employment, as determined by the
16 Department, of new direct jobs within twelve (12) months of the date
17 of application, or after July 1, 2011, within twenty-four (24)
18 months of the date of application, as follows:

19 a. if the establishment is located in a municipality with
20 a population less than three thousand five hundred
21 (3,500) persons, as determined by the Department of
22 Commerce based on the most recent U.S. Department of
23 Commerce data, or if the establishment is located in
24 an unincorporated area and the largest municipality

- 1 within twenty (20) miles of the establishment is such
2 a municipality, five new direct jobs,
- 3 b. if the establishment is located in a municipality with
4 a population of three thousand five hundred (3,500)
5 persons or more but less than seven thousand (7,000)
6 persons, as determined by the Department of Commerce
7 based on the most recent U.S. Department of Commerce
8 data, or if the establishment is located in an
9 unincorporated area and the largest municipality
10 within twenty (20) miles of the establishment is such
11 a municipality, ten new direct jobs, and
- 12 c. if the establishment is located in a municipality with
13 a population of seven thousand (7,000) persons or
14 more, as determined by the Department of Commerce
15 based on the most recent U.S. Department of Commerce
16 data, or if the establishment is located in an
17 unincorporated area and the largest municipality
18 within twenty (20) miles of the establishment is such
19 a municipality, fifteen new direct jobs.

20 Provided, for an establishment engaged in software publishing as
21 defined or classified in the NAICS Manual under Industry Group No.
22 5112, data processing, hosting and related services as defined or
23 classified in the NAICS Manual under Industry Group No. 5182,
24 computer systems design and related services as defined or

1 classified in the NAICS Manual under Industry Group No. 5415,
2 scientific research and development services as defined or
3 classified in the NAICS Manual under Industry Group No. 5417,
4 medical and diagnostic laboratories as defined or classified in the
5 NAICS Manual under Industry Group No. 6215 or testing laboratories
6 as defined or classified in the NAICS Manual under U.S. Industry No.
7 541380, the projected minimum employment requirements of this
8 paragraph must be achieved within thirty-six (36) months of the date
9 of application;

10 4. Has or will have within twelve (12) months of the date of
11 application, or after July 1, 2011, within twenty-four (24) months
12 of the date of application, as determined by the Department, sales
13 of at least seventy-five percent (75%) of its total sales to out-of-
14 state customers or buyers, to in-state customers or buyers if the
15 product or service is resold by the purchaser to an out-of-state
16 customer or buyer for ultimate use, or to the federal government,
17 except that:

18 a. those establishments in the NAICS Manual under the
19 U.S. Industry No. 541710 or 541380 are excused from
20 the seventy-five percent (75%) out-of-state sales
21 requirement,

22 b. warehouses that serve as distribution centers for
23 retail or wholesale businesses shall be required to
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1 distribute forty percent (40%) of inventory to out-of-
2 state locations, and

- 3 c. adjustment and collection services activities defined
4 or classified in the NAICS Manual under U.S. Industry
5 No. 561440 shall be required to have seventy-five
6 percent (75%) of loans to be serviced made by out-of-
7 state debtors;

8 5. Will pay the individuals it employs in new direct jobs an
9 average annualized wage which equals or exceeds:

- 10 a. one hundred twenty-five percent (125%) of the average
11 county wage of small employers located in that county
12 as that percentage is determined by the Department of
13 Commerce based on the most recent wage and employment
14 data from the Oklahoma Employment Security Commission
15 for the county in which the new direct jobs are
16 located. For purposes of this subparagraph, health
17 care premiums paid by the applicant for individuals in
18 new direct jobs shall be included in the annualized
19 wage, or

- 20 b. one hundred ten percent (110%) of the average county
21 wage of small employers located in that county as that
22 percentage is determined by the Department of Commerce
23 based upon the most recent wage and employment data
24 from the Oklahoma Employment Security Commission for

1 the county in which the new direct jobs are located.

2 For purposes of this subparagraph, health care

3 premiums paid by the applicant for individuals in new

4 direct jobs shall not be included in the annualized

5 wage, or

6 c. one hundred percent (100%) of the average county wage,

7 excluding health care premiums paid by the applicant

8 for individuals in new direct jobs if the county in

9 which the new jobs are located has:

10 (1) according to the most recent annual determination

11 by the Oklahoma Employment Security Commission, a

12 county unemployment rate more than ten percent

13 (10%) higher than the state unemployment rate,

14 and

15 (2) according to the most recent United States Census

16 Bureau Data, a county personal poverty rate above

17 fifteen percent (15%);

18 6. Has a basic health benefit plan which, as determined by the

19 Department, meets the elements established under divisions (1)

20 through (7) of subparagraph b of paragraph 1 of subsection A of

21 Section 3603 of this title and which will be offered to individuals

22 within twelve (12) months of employment in a new direct job;

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

4 8. Is not qualified for approval of an application for
5 incentive payments under the Oklahoma Quality Jobs Program Act, the
6 Saving Quality Jobs Act, or the Former Military Facility Development
7 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 application, 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 seven-year period.
15 The Tax Commission may require the qualified establishment to submit
16 additional information as may be necessary to administer the
17 provisions of the Small Employer Quality Jobs Incentive Act. The
18 approved establishment shall report to the Tax Commission quarterly
19 to show its continued eligibility for incentive payments, as
20 provided in Section 3905 of this title. Establishments may be
21 audited by the Tax Commission to verify such eligibility. Once the
22 establishment is approved, an agreement shall be deemed to exist
23 between the establishment and the State of Oklahoma, requiring
24 incentive payments to be made for a seven-year period as long as the

1 establishment retains its eligibility and within the limitations of
2 the Small Employer Quality Jobs Incentive Act which existed at the
3 time of such approval. Any establishment which has been approved
4 for incentive payments prior to July 1, 2002, shall continue to
5 receive such payments pursuant to the laws as they existed prior to
6 July 1, 2002, for any period of time of the original five-year
7 period for such payments remaining after July 1, 2002.

8 E. For any contract executed by an establishment on or after
9 the effective date of this act, five percent (5%) of the quarterly
10 incentive payment amount shall be transferred by the Oklahoma Tax
11 Commission to the Oklahoma Quick Action Closing Fund.

12 SECTION 4. AMENDATORY 68 O.S. 2011, Section 3914, as
13 last amended by Section 24, Chapter 4, O.S.L. 2014 (68 O.S. Supp.
14 2017, Section 3914), is amended to read as follows:

15 Section 3914. A. ~~An~~ Except for the payment amount required by
16 subsection E of this section, an establishment which meets the
17 qualifications specified in the 21st Century Quality Jobs Incentive
18 Act may receive quarterly incentive payments for a ten-year period
19 from the Oklahoma Tax Commission pursuant to the provisions of this
20 act, as verified by the Tax Commission, in an amount equal to:

21 1. The gross payroll multiplied by the initial net benefit rate
22 until such time as the establishment creates ten new direct jobs; or
23
24

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

4 B. In order to receive incentive payments, an establishment
5 shall apply to the Oklahoma Department of Commerce. The application
6 shall be on a form prescribed by the Department and shall contain
7 such information as may be required by the Department to determine
8 if the applicant is qualified. The establishment may apply for an
9 effective date for a project, which shall not be more than twelve
10 (12) months from the date the application is submitted to the
11 Department.

12 C. Before approving an application for incentive payments, the
13 Department must first determine that the applicant meets the
14 following requirements:

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

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

19 3. Will pay the individuals it employs in new direct jobs an
20 average annualized wage which equals or exceeds three hundred
21 percent (300%) of the average county wage for the county in which
22 the applicant is located as that percentage is determined by the
23 Department of Commerce based on the most recent U.S. Department of
24 Commerce data. For purposes of this paragraph, health care premiums

1 paid by the applicant for individuals in new direct jobs shall not
2 be included in the annualized wage. Provided, no average wage
3 requirement shall exceed Ninety-four Thousand Dollars (\$94,000.00)
4 in any county. This maximum wage threshold shall be indexed and
5 modified from time to time based on the latest Consumer Price Index
6 year-to-date percent change release as of the date of the annual
7 average county wage data release from the Bureau of Economic
8 Analysis of the U.S. Department of Commerce;

9 4. Has a basic health benefit plan which, as determined by the
10 Department, meets the elements established under divisions (1)
11 through (7) of subparagraph b of paragraph 1 of subsection A of
12 Section 3603 of this title and which will be offered to individuals
13 within twelve (12) months of employment in a new direct job;

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

17 6. Is not qualified for approval of an application for
18 incentive payments under the Small Employer Quality Jobs Program
19 Act, the Saving Quality Jobs Act or the Former Military Facility
20 Development Act.

21 D. The Oklahoma Department of Commerce shall determine if an
22 applicant is qualified to receive the incentive payment. Upon
23 qualifying the applicant, the Department shall notify the Tax
24 Commission and shall provide it with a copy of the contract and

1 approval which shall provide the number of persons employed by the
2 applicant upon the date of approval and the maximum total incentives
3 which may be paid to the applicant during the ten-year period. The
4 Tax Commission may require the qualified establishment to submit
5 additional information as may be necessary to administer the
6 provisions of this act. The approved establishment shall report to
7 the Tax Commission quarterly to show its continued eligibility for
8 incentive payments, as provided in Section 3905 of this title.
9 Establishments may be audited by the Tax Commission to verify such
10 eligibility. Once the establishment is approved, an agreement shall
11 be deemed to exist between the establishment and the State of
12 Oklahoma, requiring incentive payments to be made for a ten-year
13 period as long as the establishment retains its eligibility and
14 within the limitations of this act as it existed at the time of such
15 approval.

16 E. For any contract executed by an establishment on or after
17 the effective date of this act, five percent (5%) of the quarterly
18 incentive payment amount shall be transferred by the Oklahoma Tax
19 Commission to the Oklahoma Quick Action Closing Fund.

20 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
21 April 11, 2018 - DO PASS AS AMENDED
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