

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 57th Legislature (2020)

4 COMMITTEE SUBSTITUTE  
5 FOR  
6 HOUSE BILL NO. 3887

By: Wallace of the House

and

**Leewright** of the Senate

7  
8  
9  
10                               COMMITTEE SUBSTITUTE

11           An Act relating to revenue and taxation; enacting the  
12           Oklahoma Remote Quality Jobs Incentive Act; stating  
13           legislative intent; defining terms; providing for  
14           payment of incentive amounts; providing for  
15           computation of incentive payment amounts; prescribing  
16           procedures for applications and incentive payments;  
17           imposing restriction on eligibility dates for  
18           projects; imposing requirements related to payment of  
19           average annualized wages; providing for cost-benefit  
20           analysis; providing for computation of net benefit  
21           rate; providing for computation of incentive payment  
22           amounts; prescribing procedures related to claims  
23           filed with the Oklahoma Tax Commission; authorizing  
24           audit; providing for continued incentive payments;  
          providing exception; creating Oklahoma Remote Quality  
          Jobs Incentive Payment Fund; providing for deposit of  
          income tax revenues; prescribing method for  
          determining deposit; requiring verification of  
          payroll; providing for termination of incentive  
          payments under certain conditions; providing for  
          incentive payments to resume; prohibiting payment of  
          incentives in excess of certain amount; prohibiting  
          participation in designated incentives based upon  
          payment of incentives pursuant to act; requiring  
          promulgation of rules; prescribing penalties for  
          false statements; providing for punishment as felony;

1 requiring repayment of incentive amounts; requiring  
2 Department of Commerce to prepare report; requiring  
3 periodic submission of report; providing for  
4 codification; providing an effective date; and  
5 declaring an emergency.

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

7 SECTION 1. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 4501 of Title 68, unless there  
9 is created a duplication in numbering, reads as follows:

10 This act shall be known and may be cited as the "Oklahoma Remote  
11 Quality Jobs Incentive Act".

12 SECTION 2. NEW LAW A new section of law to be codified  
13 in the Oklahoma Statutes as Section 4502 of Title 68, unless there  
14 is created a duplication in numbering, reads as follows:

15 It is the intent of the Legislature that:

16 1. The State of Oklahoma provide appropriate incentives to  
17 attract growth industries and sectors that employ remote workers to  
18 Oklahoma through a policy of rewarding businesses with a highly  
19 skilled, knowledge-based workforce;

20 2. The Oklahoma Department of Commerce and the Oklahoma Tax  
21 Commission implement the provisions of this act and exercise all  
22 powers as authorized in this act. The exercise of powers conferred  
23 by this act shall be deemed and held to be the performance of  
24 essential public purposes; and

1        3. Nothing herein shall be construed to constitute a guarantee  
2 or assumption by the State of Oklahoma of any debt of any  
3 individual, company, corporation or association nor to authorize the  
4 credit of the State of Oklahoma to be given, pledged or loaned to  
5 any individual, company, corporation or association.

6        SECTION 3.        NEW LAW        A new section of law to be codified  
7 in the Oklahoma Statutes as Section 4503 of Title 68, unless there  
8 is created a duplication in numbering, reads as follows:

9        A. As used in the Oklahoma Remote Quality Jobs Incentive Act:

10        1. "Basic industry" means an establishment that attracts remote  
11 workers to the state whose purpose is to increase the state's  
12 population may receive rebates on the remote workers provided that  
13 the remote workers meet the wage and health insurance requirements  
14 in state and provide evidence of such to the proxy establishment;

15        2. "New direct job" shall include full-time-equivalent  
16 employment in this state of remote workers who are employed by an  
17 establishment other than the proxy establishment which has qualified  
18 to receive incentive payments for attracting remote workers to the  
19 state. Such jobs held by remote workers did not exist in this state  
20 prior to the date of approval by the Oklahoma Department of Commerce  
21 of the application of the proxy establishment. A job shall be  
22 deemed to exist in this state prior to approval of an application if  
23 the activities and functions for which the particular job exists  
24

1 have been ongoing at any time within six (6) months prior to such  
2 approval;

3 3. "Proxy establishment" means:

4 a. a public trust which:

5 (1) is organized and existing under Section 176 of  
6 Title 60 of the Oklahoma Statutes for the benefit  
7 of a geographic area which includes a city or  
8 county or some combination thereof, and

9 (2) benefits a geographic area where new direct jobs  
10 which meet the requirements of the Oklahoma  
11 Remote Quality Jobs Incentive Act are created by  
12 an establishment, other than the proxy  
13 establishment, or

14 b. an establishment which facilitates the attraction of  
15 remote workers to the State of Oklahoma; and

16 4. "Remote worker" refers to a work flexibility arrangement  
17 under which an employee performs the duties and responsibilities of  
18 such employee's position, and other authorized activities, from an  
19 approved work site other than the location from which the employee  
20 would otherwise work, which shall not be located within the physical  
21 boundaries of the State of Oklahoma. The remote worker should not  
22 have lived in the State of Oklahoma in the previous twelve (12)  
23 months;

1        5. "Estimated direct state benefits" means the tax revenues  
2 projected by the Department to accrue to the state as a result of  
3 new direct jobs;

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

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

14       7. "Estimated net direct state benefits" means the estimated  
15 direct state benefits less the estimated direct state costs;

16       8. "Net benefit rate" means the estimated net direct state  
17 benefits computed as a percentage of gross payroll, and shall not  
18 exceed five percent (5%); and

19       9. A proxy establishment shall be required to obtain from  
20 remote workers proof of basic health benefits plans for the  
21 individuals it includes in an application. The proxy establishment  
22 shall submit the information to the Oklahoma Department of Commerce  
23 and shall ensure that the basic health plans consist of the  
24 following elements or elements substantially equivalent thereto:

- a. not more than fifty percent (50%) of the premium shall be paid by the employee,
- b. coverage for basic hospital care,
- c. coverage for physician care,
- d. coverage for mental health care,
- e. coverage for substance abuse treatment,
- f. coverage for prescription drugs, and
- g. coverage for prenatal care.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4504 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. A proxy establishment that facilitates the attraction of remote workers to the State of Oklahoma which meets the qualifications specified in the Oklahoma Remote Quality Jobs Incentive Act may receive quarterly incentive payments for a ten-quarter period. The amount of such payments shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Oklahoma Employment Security Commission.

B. In order to qualify to receive incentive payments as authorized by the Oklahoma Remote Quality Jobs Incentive Act, a proxy establishment shall be required to:

1. Have an annual gross payroll for new direct jobs projected by the Oklahoma Department of Commerce to equal or exceed One

1 Million Five Hundred Thousand Dollars (\$1,500,000.00) within one (1)  
2 year of the first complete calendar quarter following the start  
3 date; and

4 2. Have a number of full-time-equivalent employees working an  
5 average of thirty (30) or more hours per week in the new direct jobs  
6 equal to or in excess of eighty percent (80%) of the total number of  
7 new direct jobs.

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

17 D. In order to qualify to receive incentive payments as  
18 authorized by the Oklahoma Remote Quality Jobs Incentive Act, in  
19 addition to other qualifications specified herein, the proxy  
20 establishment shall be required to include remote workers whose  
21 average annualized wage which equals or exceeds the average wage  
22 requirements specified in Section 3604 of Title 68 of the Oklahoma  
23 Statutes.

24

1 E. The Department shall determine if the applicant is qualified  
2 to receive incentive payments.

3 F. If the applicant is determined to be qualified by the  
4 Department, the Department shall conduct a cost/benefit analysis to  
5 determine the estimated net direct state benefits and the net  
6 benefit rate applicable for a ten-quarter period beginning with the  
7 first complete calendar quarter following the start date and to  
8 estimate the amount of gross payroll for a ten-quarter period  
9 beginning with the first complete calendar quarter following the  
10 start date. In conducting such cost/benefit analysis, the  
11 Department shall consider quantitative factors, such as the  
12 anticipated level of new tax revenues to the state along with the  
13 added cost to the state of providing services, and such other  
14 criteria as deemed appropriate by the Department. In no event shall  
15 incentive payments, cumulatively, exceed the estimated net direct  
16 state benefits or exceed the cumulative payments made by a proxy  
17 establishment to remote workers.

18 G. Upon approval of such an application, the Department shall  
19 notify the Tax Commission and shall provide it with a copy of the  
20 contract and the results of the cost/benefit analysis. The Tax  
21 Commission may require the qualified establishment to submit such  
22 additional information as may be necessary to administer the  
23 provisions of the Oklahoma Remote Quality Jobs Program Act. The  
24 approved proxy establishment shall file quarterly claims with the



1 Tax Commission and shall continue to file such quarterly claims  
2 during the ten-quarter incentive period to show its continued  
3 eligibility for incentive payments, as provided in Section 6 of this  
4 act, or until it is no longer qualified to receive incentive  
5 payments. The proxy establishment may be audited by the Tax  
6 Commission to verify such eligibility. Once the proxy establishment  
7 is approved, an agreement shall be deemed to exist between the proxy  
8 establishment and the State of Oklahoma requiring the continued  
9 incentive payment to be made as long as the proxy establishment  
10 retains its eligibility as defined in and established pursuant to  
11 this section and Sections 3 and 5 of this act and within the  
12 limitations contained in the Oklahoma Remote Quality Jobs Program  
13 Act, which existed at the time of such approval.

14 SECTION 5. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 4505 of Title 68, unless there  
16 is created a duplication in numbering, reads as follows:

17 There is hereby created within the State Treasury a special fund  
18 for the Oklahoma Tax Commission to be designated the "Oklahoma  
19 Remote Quality Jobs Incentive Payment Fund". The Oklahoma Tax  
20 Commission is hereby authorized and directed to withhold a portion  
21 of the taxes levied and collected pursuant to Section 2355 of Title  
22 68 of the Oklahoma Statutes for deposit into the fund. The amount  
23 deposited shall equal the sum of an amount determined by multiplying  
24 the net benefit rate provided by the Department of Commerce by the

1 gross payroll as determined pursuant to the provisions of this act.  
2 All of the amounts deposited in such fund shall be used and expended  
3 by the Tax Commission solely for the purposes and in the amounts  
4 authorized by the Oklahoma Remote Quality Jobs Incentive Act. The  
5 liability of the State of Oklahoma to make the incentive payments  
6 under this act shall be limited to the balance contained in the fund  
7 created by this section.

8 SECTION 6. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 4506 of Title 68, unless there  
10 is created a duplication in numbering, reads as follows:

11 A. As soon as practicable after the end of the first complete  
12 calendar quarter following the start date, the proxy establishment  
13 shall file a claim for the payment with the Oklahoma Tax Commission  
14 and shall specify the actual number and gross payroll of new direct  
15 jobs of remote workers for the proxy establishment for the calendar  
16 quarter. The Tax Commission shall verify the actual gross payroll  
17 for new direct jobs for the proxy establishment for such calendar  
18 quarter. If the Tax Commission is not able to provide such  
19 verification utilizing all available resources, the Tax Commission  
20 may request such additional information from the proxy establishment  
21 as may be necessary or may request the proxy establishment to revise  
22 its claim. A proxy establishment may file for an extension of the  
23 initial filing date with the Oklahoma Department of Commerce. Any  
24 such extension shall be based solely upon an extraordinary adverse

1 business circumstance which prevented the proxy establishment  
2 attracting the remote workers in the new direct jobs as projected.  
3 If a proxy establishment fails to file claims as required by this  
4 section, it shall forfeit the right to receive any incentive  
5 payments after two (2) years from the start date. If an  
6 establishment has filed at least one claim pursuant to this section  
7 but fails to file another claim within two (2) years of the most  
8 recent claim, the Tax Commission, after consulting with the  
9 Department of Commerce, may dismiss the establishment from the  
10 program, forfeiting the establishment's right to receive incentive  
11 payments based on that contract.

12 B. If the actual verified gross payroll for four (4)  
13 consecutive calendar quarters does not equal or exceed the  
14 applicable total required by Section 4 of this act within twelve  
15 (12) months of the start date, or does not equal or exceed the  
16 applicable total required by Section 4 of this act at any other time  
17 during the ten-quarter period after the start date, the incentive  
18 payments shall not be made and shall not be resumed until such time  
19 as the actual verified gross payroll equals or exceeds the amounts  
20 specified in Section 4 of this act. If a proxy establishment fails  
21 to achieve the required gross payroll within twelve (12) months of  
22 the start date, the proxy establishment shall not make a new or  
23 renewal application for incentive payments authorized pursuant to  
24 the Oklahoma Remote Quality Jobs Program Act for a period of twelve

1 (12) months from the last day of the last month of the ten-quarter  
2 period during which the required gross payroll amount was not  
3 achieved.

4 C. If the average annualized wage required for a proxy  
5 establishment does not equal or exceed the amount specified in  
6 paragraph 1 or 2 of subsection F of Section 3604 of Title 68 of the  
7 Oklahoma Statutes during any calendar quarter, the incentive  
8 payments shall not be made and shall not be resumed until such time  
9 as such requirements are met.

10 D. In no event shall incentive payments, cumulatively, exceed  
11 the estimated net direct state benefits or exceed the cumulative  
12 payments made by a proxy establishment to remote workers.

13 E. The proxy establishment shall be responsible to collect  
14 payroll statements or other such documentation of withholding taxes  
15 paid to the State of Oklahoma from remote workers and shall submit  
16 that information to the Oklahoma Tax Commission.

17 SECTION 7. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 4507 of Title 68, unless there  
19 is created a duplication in numbering, reads as follows:

20 A. Notwithstanding any other provision of law, if a qualified  
21 proxy establishment receives an incentive payment pursuant to the  
22 provisions of this act, neither the qualified proxy establishment  
23 nor the companies associated with the remote workers shall be  
24 eligible to receive the credits or exemptions provided for in the

1 following provisions of law in connection with the activity for  
2 which the incentive payment was received:

3 1. Section 3603 of Title 68 of the Oklahoma Statutes (Oklahoma  
4 Quality Jobs Program Act);

5 2. Section 3901 of Title 68 of the Oklahoma Statutes (Small  
6 Employer Quality Jobs Incentive Act);

7 3. Section 3911 of Title 68 of the Oklahoma Statutes (21st  
8 Century Quality Jobs Incentive Act); or

9 4. Paragraphs 16 and 17 of Section 1357 of Title 68 of the  
10 Oklahoma Statutes.

11 SECTION 8. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 4508 of Title 68, unless there  
13 is created a duplication in numbering, reads as follows:

14 The Department of Commerce and the Oklahoma Tax Commission shall  
15 promulgate rules necessary to implement their respective duties and  
16 responsibilities under the provisions of this act.

17 SECTION 9. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 4509 of Title 68, unless there  
19 is created a duplication in numbering, reads as follows:

20 Any person making an application, claim for payment or any  
21 report, return, statement or other instrument or providing any other  
22 information pursuant to the provisions of this act who willfully  
23 makes a false or fraudulent application, claim, report, return,  
24 statement, invoice or other instrument or who willfully provides any

1 false or fraudulent information, or any person who willfully aids or  
2 abets another in making such false or fraudulent application, claim,  
3 report, return, statement, invoice or other instrument or who  
4 willfully aids or abets another in providing any false or fraudulent  
5 information, upon conviction, shall be guilty of a felony punishable  
6 by the imposition of a fine of not less than One Thousand Dollars  
7 (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00),  
8 or imprisonment in the State Penitentiary for not less than two (2)  
9 years and not more than five (5) years, or by both such fine and  
10 imprisonment. Any person convicted of a violation of this section  
11 shall be liable for the repayment of all incentive payments which  
12 were paid to the establishment. Interest shall be due on such  
13 payments at the rate of ten percent (10%) per annum.

14 SECTION 10. NEW LAW A new section of law to be codified  
15 in the Oklahoma Statutes as Section 4510 of Title 68, unless there  
16 is created a duplication in numbering, reads as follows:

17 The Oklahoma Department of Commerce shall prepare triennially a  
18 report which shall include, but not be limited to, documentation of  
19 the new direct jobs created under the Oklahoma Remote Quality Jobs  
20 Program Act and a fiscal analysis of the costs and benefits of the  
21 Program to the state. The report shall be submitted to the  
22 President Pro Tempore of the Senate, the Speaker of the House of  
23 Representatives and the Governor of this state no later than March  
24 1, 2023, and every three (3) years thereafter. The report may be

1 used for the purpose of determining whether to continue or sunset  
2 the Oklahoma Remote Quality Jobs Program Act.

3 SECTION 11. This act shall become effective July 1, 2020.

4 SECTION 12. It being immediately necessary for the preservation  
5 of the public peace, health or safety, an emergency is hereby  
6 declared to exist, by reason whereof this act shall take effect and  
7 be in full force from and after its passage and approval.

8

9 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET, dated  
10 02/26/2020 - DO PASS, As Amended and Coauthored.

11

12

13

14

15

16

17

18

19

20

21

22

23

24