

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1658

By: Kirt

AS INTRODUCED

An Act relating to incentive payments; amending 68 O.S. 2021, Sections 3603, 3604, and 3604.1, which relate to the Oklahoma Quality Jobs Program; modifying wage requirement for establishments entering the Oklahoma Quality Jobs Program Act as the result of a change-in-control event for certain period; modifying wage requirement for certain applicants; limiting maximum wage requirement to certain period; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 3603, is amended to read as follows:

Section 3603. A. As used in the Oklahoma Quality Jobs Program Act:

1. a. "Basic industry" means:

(1) those manufacturing activities defined or classified in the NAICS Manual under Industry Sector Nos. 31, 32 and 33, Industry Group No. 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 and  
9                   56142 or U.S. Industry Nos. 524291 and 551114,  
10                  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

- (40%) or more of the inventory processed through such warehouse is shipped out-of-state,
- (6) those adjustment and collection service activities defined or classified in the NAICS Manual under U.S. Industry No. 561440, if seventy-five percent (75%) of the loans to be serviced were made by out-of-state debtors,
- (7) (a) those air transportation activities defined or classified in the NAICS Manual under Industry Group No. 4811, if the following facilities are located in this state:
- (i) the corporate headquarters of an establishment classified therein, and
- (ii) a facility or facilities at which reservations for transportation provided by such an establishment are processed, whether such services are performed by employees of the establishment, by employees of a subsidiary of or other entity affiliated with the establishment or by employees of an entity with whom the establishment has contracted for the 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          the Oklahoma Quality Jobs Program Act shall  
23          include new direct jobs for which gross payroll  
24

1                   existed on or after January 1, 2003, as  
2                   identified in the 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 Nos. 482 and  
18               484 and Industry Group Nos. 4884 through  
19               4889,

20           (b)   those passenger transportation activities  
21               defined or classified in the NAICS Manual  
22               under Industry Nos. 561510 and 561599,  
23  
24  
25

- 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 services to dwellings and other  
8 buildings, as defined or classified in the  
9 NAICS Manual under Industry Group No. 5617,  
10 excluding U.S. Industry Nos. 561730, 56171,  
11 56172, 56174 and 56179,  
12 (f) those equipment rental and leasing  
13 activities defined or classified in the  
14 NAICS Manual under Industry Group No. 5324,  
15 (g) those information technology and other  
16 computer-related service activities defined  
17 or classified in the NAICS Manual under  
18 Industry Group Nos. 5112, 5182, 5191 and  
19 5415,  
20 (h) those business support service activities  
21 defined or classified in the NAICS Manual  
22 under U.S. Industry Nos. 561410 through  
23 561430, excluding 56143, and Industry No.  
24 51911,

- 1 (i) those medical and diagnostic laboratory  
2 activities defined or classified in the  
3 NAICS Manual under Industry Group No. 6215,  
4 (j) those professional, scientific and technical  
5 service activities defined or classified in  
6 the NAICS Manual under Industry Group Nos.  
7 5412, 5414, 5415, 5416 and 5417, Industry  
8 Nos. 54131, 54133, 54136 and 54137, and U.S.  
9 Industry No. 541990, if not otherwise listed  
10 in this paragraph,  
11 (k) those communication service activities  
12 defined or classified in the NAICS Manual  
13 under Industry Nos. 51741 and 51791,  
14 (l) those refuse systems activities defined or  
15 classified in the NAICS Manual under  
16 Industry Group No. 5622, provided that the  
17 establishment is primarily engaged in the  
18 capture and distribution of methane gas  
19 produced within a landfill,  
20 (m) general wholesale distribution of groceries,  
21 defined or classified in the NAICS Manual  
22 under Industry Group Nos. 4244 and 4245,  
23 (n) those activities relating to processing of  
24 insurance claims, defined or classified in



1 the NAICS Manual under U.S. Industry Nos.

2 524210 and 524292; provided, activities

3 described in U.S. Industry Nos. 524210 and

4 524292 in the NAICS Manual other than

5 processing of insurance claims shall not be

6 included for purposes of this subdivision,

7 (o) those agricultural activities classified in  
8 the NAICS Manual under U.S. Industry Nos.  
9 112120 and 112310,

10 (p) those professional organization activities  
11 classified in the NAICS Manual under U.S.  
12 Industry No. 813920,

13 (q) alternative energy structure construction  
14 classified in the NAICS Manual under U.S.  
15 Industry No. 237130,

16 (r) solar reflective coating application  
17 classified in the NAICS Manual under U.S.  
18 Industry No. 238160,

19 (s) solar heating equipment installation  
20 classified in the NAICS Manual under U.S.  
21 Industry No. 238220,

22 (t) those wired telecommunications carriers  
23 classified in the NAICS Manual under U.S.  
24 Industry No. 517110, and

(u) those securities, commodity contracts and investment activities classified in the NAICS Manual under Industry Subsector No. 523,

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

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

1 (12) those activities defined or classified in the  
2 NAICS Manual under U.S. Industry No. 711211 (2007  
3 version),

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

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

17 b. An establishment described in subparagraph a of this  
18 paragraph shall not be considered to be engaged in a  
19 basic industry unless it offers, or will offer within  
20 one hundred eighty (180) days of employment, a basic  
21 health benefits plan to the individuals it employs in  
22 new direct jobs in this state which is determined by  
23 the Oklahoma Department of Commerce to consist of the  
24

1 following elements or elements substantially  
2 equivalent thereto:

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

11 2. "Change-in-control event" means the transfer to one or more  
12 unrelated establishments or unrelated persons<sup>7</sup> of either:

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

19 A transferor shall be treated as related to a transferee if more  
20 than fifty percent (50%) of the voting interests of the transferor  
21 and transferee are owned, directly or indirectly, by the other or  
22 are owned, directly or indirectly, by the same person or persons,  
23 unless such transferred establishment has an outstanding class of  
24 equity securities registered under Sections 12(b) or 15(d) of the

1 Securities Exchange Act of 1934, as amended, in which event the  
2 transferor and transferee will be treated as unrelated; provided, an  
3 establishment applying for the Oklahoma Quality Jobs Program Act as  
4 a result of a change-in-control event is required to apply within  
5 one hundred eighty (180) days of the change-in-control event to  
6 qualify for consideration. An establishment entering the Oklahoma  
7 Quality Jobs Program Act as the result of a change-in-control event  
8 shall be required to maintain a level of new direct jobs as agreed  
9 to in its contract with the Oklahoma Department of Commerce and to  
10 pay new direct jobs an average annualized wage which equals or  
11 exceeds one hundred twenty-five percent (125%) of the average county  
12 wage, for the county in which the new jobs are located, for  
13 applications submitted by an establishment before January 1, 2023.  
14 For applications submitted by an establishment on or after January  
15 1, 2023, one hundred twenty-five percent (125%) of the average  
16 county wage, for the county in which the new jobs are located, or  
17 one hundred percent (100%) of the average state wage for application  
18 submitted by an establishment on or after January 1, 2023, whichever  
19 is greater, as that percentage is determined by the Oklahoma  
20 Department of Commerce based upon the most recent U.S. Department of  
21 Commerce data ~~for the county in which the new jobs are located.~~ For  
22 purposes of this paragraph, healthcare premiums paid by the  
23 applicant for individuals in new direct jobs shall not be included  
24 in the annualized wage. Such establishment entering the Oklahoma

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

15 3. "New direct job":

- 16 a. means full-time-equivalent employment in this state in  
17 an establishment which has qualified to receive an  
18 incentive payment pursuant to the provisions of the  
19 Oklahoma Quality Jobs Program Act which employment did  
20 not exist in this state prior to the date of approval  
21 by the Department of the application of the  
22 establishment pursuant to the provisions of Section  
23 3604 of this title and with respect to an  
24 establishment qualifying for incentive payments

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

1 determines that the jobs located at such establishment  
2 are likely to leave the state, "new direct job" shall  
3 include employment that existed in this state prior to  
4 the date of application which is retained in this  
5 state by the new establishment following a change in  
6 control event, if such job otherwise qualifies as a  
7 new direct job, and

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



1 be limited to those jobs directly comprising the  
2 corporate headquarters of or directly relating to  
3 manufacturing, maintenance, administrative, financial,  
4 engineering, surveying, geological or geophysical  
5 services performed by the establishment. Under no  
6 circumstances shall employment relating to field  
7 services be considered new direct jobs;

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

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

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

21 6. "Estimated net direct state benefits" means the estimated  
22 direct state benefits less the estimated direct state costs;

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

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

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

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

6 (2) in a county in which:

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

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

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

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

23 (1) is, as of the date of application, receiving  
24 incentive payments pursuant to the Oklahoma  
25

1                   Quality Jobs Program Act and has been receiving  
2                   such payments for at least one (1) year prior to  
3                   the date of application, and

4                   (2) expands its operations in this state by creating  
5                   additional new direct jobs which pay average  
6                   annualized wages which equal or exceed one  
7                   hundred fifty percent (150%) of the average  
8                   annualized wages of new direct jobs on which  
9                   incentive payments were received during the  
10                  preceding calendar year,

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

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

- 8 g. the net benefit rate shall not exceed six percent (6%)  
9 in connection with an establishment which employs  
10 United States military veterans in at least ten  
11 percent (10%) of its gross payroll. The net benefit  
12 rate for an establishment which employs United States  
13 military veterans in at least ten percent (10%) of its  
14 payroll shall not be lower than five percent (5%).

15 Incentive payments made pursuant to the provisions of this  
16 subparagraph shall be based upon payroll associated with such new  
17 direct jobs. For purposes of this subparagraph, the amount of  
18 health insurance premiums or other benefits paid by the  
19 establishment shall not be included for purposes of computation of  
20 the average annualized wage;

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

- 23 9. a. "Establishment" means any business or governmental  
24 entity, no matter what legal form, including, but not

1 limited to, a sole proprietorship; partnership;  
2 limited liability company; corporation or combination  
3 of corporations which have a central parent  
4 corporation which makes corporate management decisions  
5 such as those involving consolidation, acquisition,  
6 merger or expansion; federal agency; political  
7 subdivision of the State of Oklahoma; or trust  
8 authority; provided, distinct, identifiable subunits  
9 of such entities may be determined to be an  
10 establishment, for all purposes of the Oklahoma  
11 Quality Jobs Program Act, by the Department subject to  
12 the following conditions:

13 (1) within three (3) years of the first complete  
14 calendar quarter following the start date, the  
15 entity must have a minimum payroll of Two Million  
16 Five Hundred Thousand Dollars (\$2,500,000.00) and  
17 the subunit must also have or will have a minimum  
18 payroll of Two Million Five Hundred Thousand  
19 Dollars (\$2,500,000.00),

20 (2) the subunit is engaged in an activity or service  
21 or produces a product which is demonstratively  
22 independent and separate from the entity's other  
23 activities, services or products and could be  
24

- 1                   conducted or produced in the absence of any other  
2                   activity, service or production of the entity,  
3       (3)       has an accounting system capable of tracking or  
4                   facilitating an audit of the subunit's payroll,  
5                   expenses, revenue and production. Limited  
6                   interunit overlap of administrative and  
7                   purchasing functions shall not disqualify a  
8                   subunit from consideration as an establishment by  
9                   the Department,  
10       (4)       the entity has not previously had a subunit  
11                   determined to be an establishment pursuant to  
12                   this section; provided, the restriction set forth  
13                   in this division shall not apply to subunits  
14                   which qualify pursuant to the provisions of  
15                   subparagraph b of paragraph 7 of this subsection,  
16                   and  
17       (5)       it is determined by the Department that the  
18                   entity will have a probable net gain in total  
19                   employment within the incentive period.

- 20       b.       The Department may promulgate rules to further limit  
21                   the circumstances under which a subunit may be  
22                   considered an establishment. The Department shall  
23                   promulgate rules to determine whether a subunit of an  
24                   entity achieves a net gain in total employment. The

1 Department shall establish criteria for determining  
2 the period of time within which such gain must be  
3 demonstrated and a method for determining net gain in  
4 total employment;

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

9 11. "Qualified federal contract" means a contract between an  
10 agency or instrumentality of the United States government, including  
11 but not limited to the Department of Defense or any branch of the  
12 United States Armed Forces, but exclusive of any contract performed  
13 for the Federal Emergency Management Agency as a direct result of a  
14 natural disaster declared by the Governor or the President of the  
15 United States with respect to damage to property located in Oklahoma  
16 or loss of life or personal injury to persons in Oklahoma, and a  
17 lawfully recognized business entity, whether or not the business  
18 entity is organized under the laws of ~~the State of Oklahoma~~ this  
19 state or whether or not the principal place of business of the  
20 business entity is located within ~~the State of Oklahoma~~ this state,  
21 for the performance of services, including but not limited to  
22 testing, research, development, consulting or other services in a  
23 basic industry, if the contract involves the performance of such  
24 services performed on or after July 1, 2009, by the employees of the



1 business entity within ~~the State of Oklahoma~~ this state or if the  
2 contract involves the performance of such services performed on or  
3 after July 1, 2009, by employees of a lawfully recognized business  
4 entity that is a subcontractor of the business entity with which the  
5 prime contract has been formed. A qualified federal contract  
6 described in this paragraph shall not qualify unless both the  
7 qualified federal contractor and any subcontractors originally  
8 involved in the work or added subsequently during the period of  
9 performance verify to the qualified federal contractor verifier that  
10 it offers, or will offer within one hundred eighty (180) days of  
11 employment of its respective employees, a basic health benefits plan  
12 as described in subparagraph b of paragraph 1 of this subsection to  
13 individuals who perform qualified labor hours in this state;

14 12. "Qualified federal contractor verifier" means a nonprofit  
15 entity organized under the laws of ~~the State of Oklahoma~~ this state,  
16 having an affiliation with a comprehensive university which is part  
17 of The Oklahoma State System of Higher Education, and having the  
18 following characteristics:

- 19 a. established multiyear classified and unclassified  
20 indefinite-delivery/indefinite-quantity federal  
21 contract vehicles in excess of Fifty Million Dollars  
22 (\$50,000,000.00),
- 23 b. current capability to sponsor and maintain personnel  
24 security clearances and authorized by the federal

1 government to handle and perform classified work up to  
2 the Top Secret Sensitive Compartmented Information  
3 levels,

4 c. at least one on-site federally certified Sensitive  
5 Compartmented Information Facility,

6 d. on-site secure mass data storage complex with the  
7 capability of isolating, segregating and protecting  
8 corporate proprietary and classified information,

9 e. trusted agent status by maintaining no ownership of,  
10 vested interest in, nor royalty production from any  
11 intellectual property,

12 f. at least one hundred thousand (100,000) square feet of  
13 configurable laboratory and support space,

14 g. the direct access to restricted air space through a  
15 formalized memorandum of agreement with the Department  
16 of Defense,

17 h. at least five thousand (5,000) acres available for  
18 outdoor testing and training facilities, and

19 i. the ability to house state-of-the-art surety  
20 facilities, including chemical, biological,  
21 radiological, explosives, electronics, and unmanned  
22 systems laboratories and ranges;

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

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

7       15. "Effective date" means the date of approval of a contract  
8 under which incentive payments will be made pursuant to the Oklahoma  
9 Quality Jobs Program Act, which shall be the date the signed and  
10 accepted incentive contract is received by the Department; provided,  
11 an approved project may have a start date which is different from  
12 the effective date;

13       16. "Total qualified labor hours" means the reimbursed payment  
14 amount for hours of work performed by the State of Oklahoma  
15 workforce of a qualified federal contractor or the State of Oklahoma  
16 workforce of a subcontractor of a qualified federal contractor and  
17 which are required for the full performance of a qualified federal  
18 contract;

19       17. "Qualified labor rate" means the fully reimbursed labor  
20 rate paid through a qualified federal contract for qualified labor  
21 hours to the qualified federal contractor or subcontractor;

22       18. "Qualified federal contractor" means a business entity:  
23  
24  
25

- a. maintaining a prime contract with the federal government as defined in paragraph 11 of this subsection,
- b. providing notice of intent to apply to the Department within one hundred eighty (180) days of July 1, 2010, or one hundred eighty (180) days of the date of the award of a qualified federal contract or award of a new qualified subcontract under an existing qualified federal contract, and
- c. adding substantively to the contract by performing at least eight percent (8%) of the total labor whether qualified and nonqualified labor as determined by the federal contractor verifier on a direct contract or individual task order or delivery order on an indefinite-delivery/indefinite-quantity or other blanket contract vehicle.

Should a prime contractor provide notice to the Department of its intent not to apply for incentive for a qualified federal contract or fails to qualify under the criteria above, subcontractors in order of tier ranking as determined by the federal contract verifier may assume the role of the prime and apply to become a qualified federal contractor provided the entity meets the same criteria above with the exception that notice of intent to apply with the Department must be provided within sixty (60) days of

1 the prime's disqualification or one hundred eighty (180) days of the  
2 award of its subcontract, whichever is later; and

3 19. "Proxy establishment" means a public trust which:

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

8 b. benefits a geographic area where new direct jobs which  
9 meet the requirements of the Oklahoma Quality Jobs  
10 Program Act are created by an establishment, other  
11 than the proxy establishment, which is a branch of the  
12 Armed Forces of the United States.

13 A proxy establishment may be determined to be an establishment  
14 for all purposes of the Oklahoma Quality Jobs Program Act by the  
15 Department and incentive payments may be made to such proxy  
16 establishment for new direct jobs otherwise qualified pursuant to  
17 the Oklahoma Quality Jobs Program Act. The Department may  
18 promulgate rules to further specify the circumstances under which a  
19 proxy establishment may be considered an establishment for the  
20 purposes of making application for incentive payments pursuant to  
21 the Oklahoma Quality Jobs Program Act. Provided, however, that with  
22 respect to any data on qualifying direct new jobs from a branch of  
23 the Armed Forces of the United States, such rules shall only require  
24 a proxy establishment to provide such data as would otherwise be

1 publicly releasable by the branch of the Armed Forces of the United  
2 States.

3 B. The Incentive Approval Committee is hereby created and shall  
4 consist of the Director of the Office of Management and Enterprise  
5 Services, the Director of the Department and one member of the  
6 Oklahoma Tax Commission appointed by the Tax Commission, or a  
7 designee from each agency approved by such member. It shall be the  
8 duty of the Committee to determine the eligibility of all applicants  
9 for the Oklahoma Quality Jobs Program Act, subject to the applicable  
10 requirements.

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

18 SECTION 2. AMENDATORY 68 O.S. 2021, Section 3604, is  
19 amended to read as follows:

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

Oklahoma Quality Jobs Program Act; provided, such an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version) may receive quarterly incentive payments for a fifteen-year 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 receive incentive payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified. An establishment may apply for an effective date for a project, which shall not be more than twenty-four (24) months from the date the application is submitted to the Department.

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

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

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

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

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

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



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

2 in which case the requirements for purchase of output  
3 provided by this subparagraph shall not apply, and

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

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

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

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

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

- 23 a. is a federal Superfund removal site,

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

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

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

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

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

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

- 4           a. the site designated by the entity does meet one or  
5 more of the requirements listed in paragraph 1 of this  
6 subsection, and  
7           b. the site is being or has been remediated to a level  
8 which is consistent with the intended use of the  
9 property.

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

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

20       F. Except as otherwise provided by subsection G of this  
21 section~~7~~:

22       1. ~~for~~ For applications submitted on and after June 4, 2003 and  
23 before January 1, 2023, in order to qualify to receive incentive  
24 payments as authorized by the Oklahoma Quality Jobs Program Act, in  
25

1 addition to other qualifications specified herein, an establishment  
2 shall be required to pay new direct jobs an average annualized wage  
3 which equals or exceeds:

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

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

20 2. For applications submitted on and after January 1, 2023, in  
21 order to qualify to receive incentive payments as authorized by the  
22 Oklahoma Quality Jobs Program Act, in addition to other  
23 qualifications specified herein, an establishment shall be required  
24 to pay new direct jobs an average annualized wage which equals or  
25

1 exceeds one hundred percent (100%) of the average county wage for  
2 the county in which the new jobs are located or one hundred percent  
3 (100%) of the average state wage, whichever is greater, as that  
4 percentage is determined by the Department of Commerce based upon  
5 the most recent U.S. Department of Commerce data. For purposes of  
6 this paragraph, health care premiums paid by the applicant for  
7 individuals in new direct jobs shall not be included in the  
8 annualized wage.

9        Provided, no average wage requirement shall exceed Twenty-five  
10 Thousand Dollars (\$25,000.00), in any county, for applications  
11 received before January 1, 2023. This maximum wage threshold shall  
12 be indexed and modified from time to time based on the latest  
13 Consumer Price Index year-to-date percent change release as of the  
14 date of the annual average county wage data release from the Bureau  
15 of Economic Analysis of the U.S. Department of Commerce.

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

1       2. As used in this subsection:

2           a. "negative economic event" means:

3               (1) a man-made disaster or natural disaster as  
4                   defined in Section 683.3 of Title 63 of the  
5                   Oklahoma Statutes, resulting in the loss of a  
6                   significant number of jobs within a particular  
7                   county of this state, or

8               (2) an economic circumstance in which a significant  
9                   number of jobs within a particular county of this  
10                  state have been lost due to an establishment  
11                  changing its structure, consolidating with  
12                  another establishment, closing or moving all or  
13                  part of its operations out of this state, and

14          b. "significant number of jobs" means Local Area  
15              Unemployment Statistics (LAUS) data, as determined by  
16              the Bureau of Labor Statistics, for a county which are  
17              equal to or in excess of five percent (5%) of the  
18              total amount of Local Area Unemployment Statistics  
19              (LAUS) data for that county for the calendar year, or  
20              most recent twelve-month period in which employment is  
21              measured, preceding the event.

22              An establishment which is otherwise qualified to receive  
23      incentive payments and which locates in a county in which a negative  
24      economic event has occurred within the eighteen-month period

1 preceding the start date shall not be subject to the requirements of  
2 subsection F of this section; provided, an establishment shall not  
3 be eligible to receive incentive payments based upon a negative  
4 economic event with respect to jobs that are transferred from one  
5 county of this state to another.

6 H. The Department shall determine if the applicant is qualified  
7 to receive incentive payments.

8 I. If the applicant is determined to be qualified by the  
9 Department and is not subject to the provisions of subparagraph d of  
10 paragraph 7 of subsection A of Section 3603 of this title, the  
11 Department shall conduct a cost/benefit analysis to determine the  
12 estimated net direct state benefits and the net benefit rate  
13 applicable for a ten-year period beginning with the first complete  
14 calendar quarter following the start date and to estimate the amount  
15 of gross payroll for a ten-year period beginning with the first  
16 complete calendar quarter following the start date or for a fifteen-  
17 year period for an establishment defined or classified in the NAICS  
18 Manual under U.S. Industry No. 711211 (2007 version). In conducting  
19 such cost/benefit analysis, the Department shall consider  
20 quantitative factors, such as the anticipated level of new tax  
21 revenues to the state along with the added cost to the state of  
22 providing services, and such other criteria as deemed appropriate by  
23 the Department. In no event shall incentive payments, cumulatively,  
24 exceed the estimated net direct state benefits, except for

1 applicants subject to the provisions of subparagraph d of paragraph  
2 7 of subsection A of Section 3603 of this title.

3 J. Upon approval of such an application, the Department shall  
4 notify the Tax Commission and shall provide it with a copy of the  
5 contract and the results of the cost/benefit analysis. The Tax  
6 Commission may require the qualified establishment to submit such  
7 additional information as may be necessary to administer the  
8 provisions of the Oklahoma Quality Jobs Program Act. The approved  
9 establishment shall file quarterly claims with the Tax Commission  
10 and shall continue to file such quarterly claims during the ten-year  
11 incentive period to show its continued eligibility for incentive  
12 payments, as provided in Section 3606 of this title, or until it is  
13 no longer qualified to receive incentive payments. The  
14 establishment may be audited by the Tax Commission to verify such  
15 eligibility. Once the establishment is approved, an agreement shall  
16 be deemed to exist between the establishment and ~~the State of~~  
17 ~~Oklahoma~~ this state, requiring the continued incentive payment to be  
18 made as long as the establishment retains its eligibility as defined  
19 in and established pursuant to this section and Sections 3603 and  
20 3606 of this title and within the limitations contained in the  
21 Oklahoma Quality Jobs Program Act, which existed at the time of such  
22 approval. An establishment described in this subsection shall be  
23 required to repay all incentive payments received under the Oklahoma  
24 Quality Jobs Program Act if the establishment is determined by the



1 Oklahoma Tax Commission to no longer have business operations in the  
2 state within three (3) years from the beginning of the calendar  
3 quarter for which the first incentive payment claim is filed.

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

23 L. For any contract executed by an establishment on or after  
24 ~~the effective date of this act~~ August 2, 2018, five percent (5%) of

1 the quarterly incentive payment amount shall be transferred by the  
2 Oklahoma Tax Commission to the Oklahoma Quick Action Closing Fund.

3 SECTION 3. AMENDATORY 68 O.S. 2021, Section 3604.1, is  
4 amended to read as follows:

5 Section 3604.1. A. A qualified federal contractor may receive  
6 quarterly incentive payments for renewable ten-year periods from the  
7 Oklahoma Tax Commission pursuant to the provisions of the Oklahoma  
8 Quality Jobs Program Act and the provisions of this section.

9 B. The amount of such payments shall be equal to a net benefit  
10 rate of not less than twenty-five hundredths of one percent (0.25%),  
11 but not greater than two percent (2%), multiplied by the total  
12 qualified labor hours worked by employees of the federal contractor  
13 or employees of a qualified federal subcontractor, or both, pursuant  
14 to a qualified federal contract for a calendar quarter as verified  
15 by the Oklahoma Employment Security Commission and certified by a  
16 qualified federal contractor verifier. The net benefit rate for a  
17 qualified federal contractor shall be scaled to annual  
18 subcontracting goals that account for both total qualified  
19 subcontract labor hours and the ratio of qualified subcontract labor  
20 hours to total qualified labor hours. Unless limited by the  
21 cost/benefit analysis, the net benefit rate shall:

22 1. Not exceed twenty-five hundredths of one percent (0.25%)  
23 when annual qualified subcontract labor hours are less than Two  
24 Hundred Thousand Dollars (\$200,000.00) or when annual qualified

1 subcontract labor is less than one percent (1%) of the annual total  
2 qualified labor hours claimed;

3 2. Not be less than five-tenths of one percent (0.5%) when  
4 subcontract goals are met with a minimum of Two Hundred Thousand  
5 Dollars (\$200,000.00) of annual total qualified subcontractor labor  
6 hours and these hours are a minimum of one percent (1%) of the  
7 annual total qualified hours claimed;

8 3. Not be less than one percent (1%) when subcontract goals are  
9 met with a minimum of One Million Dollars (\$1,000,000.00) of annual  
10 total qualified subcontractor labor hours and when these hours  
11 represent a minimum of five percent (5%) of the annual total  
12 qualified hours claimed;

13 4. Not be less than one and five-tenths percent (1.5%) when  
14 subcontract goals are met with a minimum of Two Million Dollars  
15 (\$2,000,000.00) of annual total qualified subcontractor labor hours  
16 and these hours are a minimum of ten percent (10%) of the annual  
17 total qualified hours claimed; and

18 5. Not be less than two percent (2.0%) when subcontract goals  
19 are met with a minimum of Four Million Dollars (\$4,000,000.00) of  
20 annual total qualified subcontractor labor hours and these hours are  
21 a minimum of twenty percent (20%) of the annual total qualified  
22 hours claimed.

23 C. In order to receive incentive payments, a qualified federal  
24 contractor shall apply to the Oklahoma Department of Commerce within  
25

1 one hundred eighty (180) days following the date of the award of a  
2 qualified federal contract or award of a new qualified subcontract  
3 under an existing qualified federal contract. The application shall  
4 be on a form prescribed by the Department and shall contain such  
5 information as may be required by the Department to determine if the  
6 applicant is qualified. Once qualified by the Department, the  
7 applicant shall submit qualified federal contracts to the federal  
8 contract verifier. The federal contract verifier shall establish  
9 with the applicant an information system(s) or contract(s) as may be  
10 required to certify the total qualified labor hours, qualified labor  
11 rates, and reimbursement through the qualified federal contract. A  
12 qualified federal contractor may apply for an effective date for a  
13 project, which shall not be more than twenty-four (24) months from  
14 the date the application is submitted to the Department. No state  
15 agency shall be required to make any payment to a qualified federal  
16 contract verifier for any information needed by the agency to  
17 perform any duty imposed upon it pursuant to the provisions of  
18 Section 3601 et seq. of this title. All costs for the federal  
19 contract verifier shall be reimbursed through value-added services  
20 on the qualified federal contract or other mechanisms agreed to by  
21 the federal contractor verifier and the federal contract performers.

22 D. In order to qualify to receive incentive payments as  
23 authorized by the Oklahoma Quality Jobs Program Act, in addition to  
24 other qualifications specified herein, a qualified federal

1 contractor shall be required to pay direct jobs an average  
2 annualized wage which equals or exceeds:

3 1. For applications submitted before January 1, 2023:

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

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

20 2. For applications submitted on or after January 1, 2023, one  
21 hundred percent (100%) of the average county wage for the county in  
22 which the new direct jobs are located or one hundred percent (100%)  
23 of the average state wage, whichever is greater, as determined by  
24 the Department of Commerce based on the most recent U.S. Department

1 of Commerce data. For purposes of this paragraph, health care  
2 premiums paid by the applicant for individuals in new direct jobs  
3 shall not be included in the annualized wage.

4        Provided, no average wage requirement shall exceed Twenty-nine  
5 Thousand Four Hundred Nine Dollars (\$29,409.00), in any county, for  
6 applications submitted before January 1, 2023. This maximum wage  
7 threshold shall be indexed and modified from time to time based on  
8 the latest Consumer Price Index year-to-date percent change release  
9 as of the date of the annual average county wage data release from  
10 the Bureau of Economic Analysis of the U.S. Department of Commerce.

11        3. For qualified subcontractor work, the qualified federal  
12 contractor shall have a minimum average qualified labor rate  
13 requirement paid to the subcontractor of Thirty-one Dollars (\$31.00)  
14 per hour, in any county. This maximum wage threshold shall be  
15 indexed and modified from time to time based on the latest Consumer  
16 Price Index year-to-date percent change release as of the date of  
17 the annual average county wage data release from the Bureau of  
18 Economic Analysis of the U.S. Department of Commerce.

19        E. The Department shall determine if the applicant is qualified  
20 to receive incentive payments using information supplied to the  
21 Department by the qualified federal contractor verifier. The NAICS  
22 code or codes under which the federal government awarded the  
23 qualified federal contract shall be used to determine the basic  
24 industry for a qualified federal contractor. For federal contracts

1 awarded under NAICS codes not within the definition of basic  
2 industry pursuant to paragraph 1 of subsection A of Section 3603 of  
3 this title, the Department of Commerce, with the federal contract  
4 verifier, may evaluate and utilize individual statement of work  
5 items that would qualify within a basic industry definition.

6 F. If the applicant is determined to be qualified by the  
7 Department, the Department shall conduct a cost/benefit analysis to  
8 determine the estimated net direct state benefits and the net  
9 benefit rate, as provided by subsection B of this section,  
10 applicable for a ten-year period beginning with the first complete  
11 calendar quarter following the start date and to estimate the amount  
12 of gross payroll and total qualified labor hours for a ten-year  
13 period beginning with the first complete calendar quarter following  
14 the start date. In conducting such cost/benefit analysis, the  
15 Department shall consider quantitative factors, such as the  
16 anticipated level of new tax revenues to the state along with the  
17 added cost to the state of providing services, and such other  
18 criteria as deemed appropriate by the Department. In no event shall  
19 incentive payments, cumulatively, exceed the estimated net direct  
20 state benefits. Using this net cost/benefit analysis model, the  
21 Department may establish the renewable ten-year contract with a  
22 qualified federal contractor at the entity level to encompass any  
23 current or future qualified federal contracts that meet the  
24

1 cost/benefit analysis metrics as determined by the federal  
2 contractor verifier and confirmed by the Department.

3 G. Upon approval of such an application, the Department shall  
4 notify the Tax Commission and shall provide it with a copy of the  
5 contract that has been cosigned by the federal contractor verifier  
6 and the results of the cost/benefit analysis. The Tax Commission  
7 may require the qualified federal contractor, federal contract  
8 verifier, and qualified subcontractors to submit such additional  
9 information as may be necessary to administer the provisions of the  
10 Oklahoma Quality Jobs Program Act. The approved qualified federal  
11 contractor shall file quarterly claims with the Tax Commission and  
12 shall continue to file such quarterly claims during the ten-year  
13 incentive period to show its continued eligibility for incentive  
14 payments, as provided in Section 3606 of this title, or until it is  
15 no longer qualified to receive incentive payments. The qualified  
16 federal contractor may be audited by the Tax Commission to verify  
17 such eligibility. Once the qualified federal contractor is  
18 approved, an agreement shall be deemed to exist between the  
19 qualified federal contractor and the State of Oklahoma, requiring  
20 the continued incentive payment to be made as long as the qualified  
21 federal contractor retains its eligibility as defined in and  
22 established pursuant to this section and Sections 3603 and 3606 of  
23 this title and within the limitations contained in the Oklahoma  
24



1 Quality Jobs Program Act, which existed at the time of such  
2 approval.

3 H. For qualified federal contracts with periods of performance  
4 exceeding two (2) years, if the actual annual verified gross  
5 qualified labor hours for four (4) consecutive calendar quarters  
6 does not equal or exceed Two Million Five Hundred Thousand Dollars  
7 (\$2,500,000.00) within three (3) years of the start date, or does  
8 not equal or exceed actual annual gross qualified labor hours of Two  
9 Million Five Hundred Thousand Dollars (\$2,500,000.00) at any other  
10 time during the ten-year period after the start date, the incentive  
11 payments shall not be made and shall not be resumed until such time  
12 as the actual annual qualified labor hours exceed Two Million Five  
13 Hundred Thousand Dollars (\$2,500,000.00).

14 I. If the average annualized wage or minimum average qualified  
15 labor rate required by subsection H of this section is not met  
16 during any calendar quarter, the incentive payments shall not be  
17 made and shall not be resumed until such time as such requirements  
18 are met.

19 J. Before approving a quarterly incentive payment for a  
20 qualified federal contract, the federal contract verifier must first  
21 determine through the Department that neither the qualified federal  
22 contractor nor the subcontractor are receiving incentive payments  
23 under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs  
24 Act, the 21st Century Quality Jobs Incentive Act or the Former  
25

1 Military Facility Development Act for the performance of the same  
2 such services under the qualified federal contract and is not  
3 qualified for approval of an application for incentive payments  
4 under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs  
5 Act, the 21st Century Quality Jobs Incentive Act or the Former  
6 Military Facility Development Act for the performance of the same  
7 such services under the qualified federal contract. If the  
8 qualified federal contractor or the subcontractor are receiving or  
9 have an approved application for incentive payments under the  
10 Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, the  
11 21st Century Quality Jobs Incentive Act or the Former Military  
12 Facility Development Act for the performance of the same such  
13 services under the qualified federal contract, each may choose to  
14 defer in part or in entirety the other incentives for the qualified  
15 federal contractor to receive the incentives pursuant to subsection  
16 B of this section. The federal contract verifier shall confirm any  
17 deferrals and ensure the total for all quality jobs incentive  
18 payments on any individual does not exceed the total net benefit to  
19 the state. Should neither the federal contractor nor the  
20 subcontractor defer in part or in entirety their incentive payments  
21 such that the total for all Quality Jobs incentive payments exceeds  
22 the total net benefit to the state, the priority for incentive  
23 payments shall go to the entity with the earliest recognized start  
24

1 date ~~identified~~ identified within the current Department of  
2 Commerce Quality Jobs contract.

3 SECTION 4. This act shall become effective November 1, 2022.  
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