

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

COMMITTEE SUBSTITUTE
FOR

HOUSE BILL NO. 2768

By: Caldwell (Trey) and Kane of
the House

and

Hall and Haste of the
Senate

COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; amending 68
O.S. 2021, Sections 3653 and 3658, which relate to
the Oklahoma Quality Jobs Incentive Leverage Act;
modifying definition; increasing certain limitation
caps related to qualifying investment amounts; and
declaring an emergency.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 3653, is
amended to read as follows:

Section 3653. As used in this act:

1. "Establishment" means a business that:

- a. has at least One Hundred Fifteen Million Dollars
(\$115,000,000.00) in annual gross compensation paid
with respect to jobs located in Oklahoma according to
Oklahoma Employment Security records and company

1 reports for the three (3) years prior to the
2 irrevocable election filing date provided by Section
3 3658 of this title,

4 b. has an average salary of at least Forty Thousand
5 Dollars (\$40,000.00) paid to employees as of the
6 irrevocable election filing date provided by Section
7 3658 of this title,

8 c. intends to add substantial gross compensation, as
9 defined below, with respect to full-time-equivalent
10 employment located in Oklahoma within three (3) years
11 of filing an initial irrevocable election with the
12 Oklahoma Department of Commerce pursuant to the
13 provisions of subsection A of Section 3658 of this
14 title,

15 d. has at least Two Hundred Million Dollars
16 (\$200,000,000.00) total investment in Oklahoma,

17 e. intends to add investment for additional modernization
18 and retooling of a facility located in the state, on
19 or after the effective date of this act, of at least
20 One Hundred Million Dollars (\$100,000,000.00), but for
21 purposes of this act not in excess of an additional
22 ~~Two Hundred Fifty Million Dollars (\$250,000,000.00)~~
23 Seven Hundred Million Dollars (\$700,000,000.00) within
24 five (5) years of filing a second irrevocable election

1 with the Oklahoma Department of Commerce pursuant to
2 the provisions of subsection A of Section 3658 of this
3 title, unless the establishment has completed at least
4 eighty percent (80%) of the expenditures for the
5 additional investment by the end of the five-year
6 period in which case the establishment shall be
7 allowed a one-year extension for completion of the
8 investment,

9 f. for purposes of an initial irrevocable election filed
10 prior to the effective date of this act, has and
11 maintains at least one thousand five hundred fifty
12 (1,550) full-time employees in the state, and

13 g. is described by Industry Number 3011, Industry Group
14 Number 301, Major Group 30 of the Standard Industrial
15 Classification Manual (SIC), latest revision;

16 2. "Gross compensation" means wages, as defined in Section
17 2385.1 of Title 68 of the Oklahoma Statutes, and benefits paid on
18 behalf of employees receiving wages; and

19 3. "Substantial gross compensation" means annualized
20 compensation of Four Million Dollars (\$4,000,000.00) or more within
21 three (3) years of filing the initial irrevocable election with the
22 Oklahoma Department of Commerce pursuant to Section 3658 of this
23 title.
24

SECTION 2. AMENDATORY 68 O.S. 2021, Section 3658, is amended to read as follows:

Section 3658. A. An establishment, as defined in Section 3653 of this title, which has been authorized to receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act prior to the effective date of this act, and that intends to use proceeds derived from the sale of obligations issued pursuant to Section 3654 of this title which obligations are issued on or after the effective date of this act, shall, as a condition of being eligible to make use of such proceeds, file a second irrevocable election with the Oklahoma Department of Commerce.

B. An establishment shall file its second irrevocable election with the Oklahoma Department of Commerce not later than one hundred eighty (180) days prior to the last date that withholding tax revenues attributable to the payroll of the establishment are legally required to be used in satisfaction of any debt service requirements or related costs imposed pursuant to an issuance of obligations by the Oklahoma Development Finance Authority if such issuance occurred prior to the effective date of this act. Such second irrevocable election shall be required in order for the establishment to be eligible for use of any proceeds from the sale of additional obligations authorized by Section 3654 of this title which obligations are issued on or after the effective date of this act. From the date upon which the second irrevocable election is

1 filed until the last date upon which withholding tax revenues
2 attributable to the payroll of the establishment are legally
3 required to be used in satisfaction of any debt service requirements
4 or related costs imposed as a result of obligations issued by the
5 Oklahoma Development Finance Authority prior to the effective date
6 of this act, the five-year period of time within which the
7 establishment would otherwise be required to make investment
8 pursuant to this act shall be extended.

9 C. Upon filing such second irrevocable election, any incentive
10 payments which would have been paid to the establishment pursuant to
11 the Oklahoma Quality Jobs Program Act after such filing shall be
12 deposited to the Quality Jobs Program Incentive Leverage Fund. Such
13 incentive payments shall be treated as an asset of the establishment
14 which has been paid to the State of Oklahoma for purposes of this
15 act.

16 D. Beginning upon the later date of July 1, 2009, or the first
17 date upon which the revenues payable to the Authority from the
18 Quality Jobs Program Incentive Leverage Fund are no longer committed
19 to the payment of debt service requirements and related costs in
20 connection with obligations issued by the Authority pursuant to the
21 Quality Jobs Incentive Leverage Act prior to the effective date of
22 this act, and for each fiscal year thereafter as otherwise required
23 by this act, monies transferred to the Quality Jobs Program
24 Incentive Leverage Fund shall be used for the payment of principal

1 and interest or other costs associated with the additional issuance
2 of obligations by the Oklahoma Development Finance Authority
3 pursuant to the provisions of Section 3654 of this title as a result
4 of a second irrevocable election. Not later than January 1 and July
5 1 of each year, the Oklahoma Development Finance Authority shall
6 certify to the Oklahoma Department of Commerce and the Oklahoma Tax
7 Commission the amount which will be required for payment of
8 principal, interest and other costs associated with the issuance of
9 such obligations for the succeeding six-month period.

10 E. Beginning on the later date of July 1, 2009, or the first
11 date upon which the revenues payable to the Authority from the
12 Quality Jobs Program Incentive Leverage Fund are no longer committed
13 to the payment of debt service requirements and related costs in
14 connection with obligations issued by the Authority pursuant to the
15 Quality Jobs Incentive Leverage Act prior to the effective date of
16 this act, and for each fiscal year thereafter as otherwise required
17 by this act, as often as may be necessary for the Oklahoma
18 Development Finance Authority to make payments with respect to
19 indebtedness issued pursuant to the provisions of this act as a
20 result of a second irrevocable election, the Tax Commission shall
21 transfer from the revenues specified in Section 3659 of this title
22 an amount required to equal the difference between the incentive
23 payment deposit and the amount certified pursuant to the provisions
24 of subsection C of this section. The Tax Commission shall then

1 transfer the total amount required pursuant to the certification to
2 the Oklahoma Development Finance Authority.

3 F. An establishment to which proceeds from the sale of any
4 obligations issued by the Oklahoma Development Finance Authority are
5 made available as provided by this act pursuant to a second
6 irrevocable election shall not claim any tax credits that would
7 otherwise be authorized pursuant to Section 2357.4 of Title 68 of
8 the Oklahoma Statutes as a result of jobs created or capital
9 investment made as a direct result of the use of such bond proceeds.
10 For purposes of this subsection and for purposes of computing any
11 tax credit pursuant to Section 2357.4 of Title 68 of the Oklahoma
12 Statutes, "bond proceeds" shall mean the amount transferred, paid or
13 made available to the establishment together with the total amount
14 of principal and interest paid by the Oklahoma Development Finance
15 Authority with respect to any amount of proceeds transferred, paid
16 or made available to the establishment.

17 G. An establishment that files a second irrevocable election
18 authorized by this section and to which proceeds from the sale of
19 obligations authorized by Section 3654 of this title are paid or
20 made available may utilize income tax credits earned prior to the
21 effective date of this act pursuant to Section 2357.4 of Title 68 of
22 the Oklahoma Statutes for a period of fifteen (15) taxable years
23 subsequent to the year in which the election is filed.

1 H. An establishment that files a second irrevocable election
2 authorized by this section and to which any proceeds from the sale
3 of obligations authorized by Section 3654 of this title are paid or
4 made available shall not be eligible to claim any exemption pursuant
5 to Section 6B of Article X of the Oklahoma Constitution or Section
6 2902 of Title 68 of the Oklahoma Statutes with respect to real or
7 personal property constituting the facility described by the
8 establishment pursuant to the disclosure document as provided by
9 Section 3655 of this title. The maximum amount of investment in any
10 facility for purposes of the foregone exemption required by this
11 subsection shall be ~~Five Hundred Million Dollars (\$500,000,000.00)~~
12 Seven Hundred Million Dollars (\$700,000,000.00), inclusive of any
13 amounts invested prior to the effective date of this act.

14 I. An establishment that files a second irrevocable election
15 authorized by this section and to which any proceeds from the sale
16 of obligations authorized by Section 3654 of this title are paid or
17 made available shall not be eligible to claim any exemption
18 otherwise available pursuant to Section 1359 of Title 68 of the
19 Oklahoma Statutes with respect to the facility constructed,
20 acquired, improved or equipped with such proceeds. The provisions
21 of this subsection shall not require any waiver of sales tax
22 exemption with respect to personal property acquired for the
23 manufacturing process after completion of construction of the
24 applicable facility.

1 SECTION 3. It being immediately necessary for the preservation
2 of the public peace, health or safety, an emergency is hereby
3 declared to exist, by reason whereof this act shall take effect and
4 be in full force from and after its passage and approval.

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