

1 STATE OF OKLAHOMA

2 2nd Session of the 60th Legislature (2026)

3 SUBCOMMITTEE RECOMMENDATION  
4 FOR

5 HOUSE BILL NO. 4191

6 By: Chapman

7 SUBCOMMITTEE RECOMMENDATION

8 An Act relating to revenue and taxation; amending 68  
9 O.S. 2021, Sections 3903 and 3904, which relate to  
10 the Small Employer Quality Jobs Act; modifying  
11 definition; defining term; modifying criteria for  
12 eligibility for incentive payments; providing for  
13 capital investment; specifying capital investment  
14 requirement; prescribing procedures for the Oklahoma  
15 Department of Commerce; providing an effective date;  
16 and declaring an emergency.

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

18 SECTION 1. AMENDATORY 68 O.S. 2021, Section 3903, is  
19 amended to read as follows:

20 Section 3903. As used in the Small Employer Quality Jobs  
21 Incentive Act:

22 1. "Basic industry" means a basic industry as defined under the  
23 Oklahoma Quality Jobs Program Act in divisions (1) through (9) of  
24 subparagraph a of paragraph 1 of subsection A of Section 3603 of  
this title, excluding those activities described in division (10) of

1 subparagraph a of paragraph 1 of subsection A of Section 3603 of  
2 this title. Provided, for the purposes of the Small Employer  
3 Quality Jobs Incentive Act, the determination required by  
4 subdivision (b) of division (7) or division (8) of subparagraph a of  
5 paragraph 1 of subsection A of Section 3603 of this title shall be  
6 made by the Oklahoma Department of Commerce and not the Incentive  
7 Approval Committee. Basic industry also includes those motion  
8 picture and video industries defined or classified in the NAICS  
9 Manual under U.S. Industry Group No. 5121, and those sound recording  
10 industries defined or classified in the NAICS Manual under U.S.  
11 Industry Group No. 5122, and those child daycare industries defined  
12 or classified in the NAICS Manual under U.S. Industry Group No.  
13 624410;

14 2. "Establishment" means any business, no matter what legal  
15 form, including, but not limited to, a sole proprietorship,  
16 partnership, corporation, or limited liability corporation;

17 3. "Estimated direct state benefits" means the tax revenues  
18 projected by the Oklahoma Department of Commerce to accrue to the  
19 state as a result of new direct jobs;

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

23 a. the costs of education of new state resident children,  
24

- b. the costs of public health, public safety and transportation services to be provided to new state residents,
- c. the costs of other state services to be provided to new state residents, and
- d. the costs of other state services;

5. "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

6. "Full-time employment" means employment of persons residing in this state and working for thirty (30) hours per week or more in this state, which has a minimum six-month duration during any twelve-month period;

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

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

- a. the net benefit rate may be variable and shall not exceed five percent (5%), and
- b. in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits; ~~and~~

9. "New direct job" means full-time employment which did not exist in this state prior to the date of approval, by the Oklahoma Department of Commerce, of an application made pursuant to the Small Employer Quality Jobs Incentive Act. A job shall be deemed to exist

1 in this state prior to approval of an application if the activities  
2 and functions for which the particular job exists have been ongoing  
3 at any time within six (6) months prior to such approval; and

4 10. "Qualifying capital investment" means new construction of  
5 real property, new renovation of existing real property, or purchase  
6 of new machinery used in the manufacturing process that occurs after  
7 the date of application. It does not include purchase of existing  
8 real property.

9 SECTION 2. AMENDATORY 68 O.S. 2021, Section 3904, is  
10 amended to read as follows:

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

19 B. In order to receive incentive payments, an establishment  
20 shall apply to the Oklahoma Department of Commerce. The application  
21 shall be on a form prescribed by the Department and shall contain  
22 such information as may be required by the Department to determine  
23 if the applicant is qualified. The establishment may apply for an  
24 effective date for a project, which shall not be more than twelve

1 (12) months from the date the application is submitted to the  
2 Department.

3 C. Before approving an application for incentive payments, the  
4 Department must first determine that the applicant meets the  
5 following requirements:

6 1. Be engaged in a basic industry;

7 2. Has no more than five hundred full-time employees in this  
8 state on the date of application nor an average of more than five  
9 hundred full-time employees in this state during the four calendar  
10 quarters immediately preceding the date of application;

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

15 a. if the establishment is located in a municipality with  
16 a population less than ~~three thousand five hundred~~  
17 ~~(3,500)~~ fifty thousand (50,000) persons, as determined  
18 by the Department of Commerce based on the most recent  
19 U.S. Department of Commerce data, or if the  
20 establishment is located in an unincorporated area and  
21 the ~~largest~~ closest municipality within twenty (20)  
22 miles of the establishment is such a municipality, new  
23 direct jobs equal to the greater of five (5) jobs or  
24

1 five percent (5%) of the company's full-time  
2 employment at the date of application, and

3 b. ~~if the establishment is located in a municipality with~~  
4 ~~a population of three thousand five hundred (3,500)~~  
5 ~~persons or more but less than seven thousand (7,000)~~  
6 ~~persons, as determined by the Department of Commerce~~  
7 ~~based on the most recent U.S. Department of Commerce~~  
8 ~~data, or if the establishment is located in an~~  
9 ~~unincorporated area and the largest municipality~~  
10 ~~within twenty (20) miles of the establishment is such~~  
11 ~~a municipality, new direct jobs equal to the greater~~  
12 ~~of ten (10) jobs or seven and one half percent (7.5%)~~  
13 ~~of the company's full-time employment at the date of~~  
14 ~~the application, and~~

15 e. if the establishment is located in a municipality with  
16 a population of ~~seven thousand (7,000)~~ fifty thousand  
17 (50,000) persons or more, as determined by the  
18 Department of Commerce based on the most recent U.S.  
19 Department of Commerce data, or if the establishment  
20 is located in an unincorporated area and the ~~largest~~  
21 closest municipality within twenty (20) miles of the  
22 establishment is such a municipality, new direct jobs  
23 equal to the greater of ~~fifteen (15)~~ ten (10) jobs or

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1 ten percent (10%) of the company's full-time  
2 employment at the date of application.

3 Provided, for an establishment engaged in software publishing as  
4 defined or classified in the NAICS Manual under Industry Group No.  
5 5112, data processing, hosting and related services as defined or  
6 classified in the NAICS Manual under Industry Group No. 5182,  
7 computer systems design and related services as defined or  
8 classified in the NAICS Manual under Industry Group No. 5415,  
9 scientific research and development services as defined or  
10 classified in the NAICS Manual under Industry Group No. 5417,  
11 medical and diagnostic laboratories as defined or classified in the  
12 NAICS Manual under Industry Group No. 6215 or testing laboratories  
13 as defined or classified in the NAICS Manual under U.S. Industry No.  
14 541380, the projected minimum employment requirements of this  
15 paragraph must be achieved within thirty-six (36) months of the date  
16 of application;

17 4. ~~Has or will have within twelve (12) months of the date of~~  
18 ~~application, or after July 1, 2011,~~ within twenty-four (24) months  
19 of the date of application, as determined by the Department,  
20 qualifying capital investment greater than Five Hundred Thousand  
21 Dollars (\$500,000.00) or sales of at least thirty-five percent (35%)  
22 for the first two (2) years and subsequently sixty percent (60%) of  
23 ~~its total sales to out-of-state customers or buyers, to in-state~~  
24 ~~customers or buyers if the product or service is resold by the~~

1 ~~purchaser to an out-of-state customer or buyer for ultimate use, or~~  
2 ~~to the federal government, of its total sales to out-of-state~~  
3 ~~customers or buyers, to in-state customers or buyers if the product~~  
4 ~~or service is resold by the purchaser to an out-of-state customer or~~  
5 ~~buyer for ultimate use, or to the federal government~~ except that:

6 a. those establishments in the NAICS Manual under the  
7 U.S. Industry No. 541710 or 541380 are excused from  
8 the out-of-state sales requirement, and

9 ~~b. warehouses that serve as distribution centers for~~  
10 ~~retail or wholesale businesses shall be required to~~  
11 ~~distribute forty percent (40%) of inventory to out-of-~~  
12 ~~state locations, and~~

13 ~~e.~~ adjustment and collection services activities defined  
14 or classified in the NAICS Manual under U.S. Industry  
15 No. 561440 shall be required to have seventy-five  
16 percent (75%) of loans to be serviced made by out-of-  
17 state debtors;

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

20 a. one hundred twenty-five percent (125%) of the average  
21 county wage of small employers located in that county  
22 as that percentage is determined by the Department of  
23 Commerce based on the most recent wage and employment  
24 data from the Oklahoma Employment Security Commission

1 for the county in which the new direct jobs are  
2 located. For purposes of this subparagraph, health  
3 care premiums paid by the applicant for individuals in  
4 new direct jobs shall be included in the annualized  
5 wage, or

6 b. one hundred ten percent (110%) of the average county  
7 wage of small employers located in that county as that  
8 percentage is determined by the Department of Commerce  
9 based upon the most recent wage and employment data  
10 from the Oklahoma Employment Security Commission for  
11 the county in which the new direct jobs are located.  
12 For purposes of this subparagraph, health care  
13 premiums paid by the applicant for individuals in new  
14 direct jobs shall not be included in the annualized  
15 wage, or

16 c. one hundred percent (100%) of the average county wage,  
17 excluding health care premiums paid by the applicant  
18 for individuals in new direct jobs if the county in  
19 which the new jobs are located has:

20 (1) according to the most recent annual determination  
21 by the Oklahoma Employment Security Commission, a  
22 county unemployment rate more than ten percent  
23 (10%) higher than the state unemployment rate,  
24 and

1 (2) according to the most recent United States Census  
2 Bureau Data, a county personal poverty rate above  
3 fifteen percent (15%);

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

9 7. ~~Has not received incentive payments under the Oklahoma~~  
10 ~~Quality Jobs Program Act, the Saving Quality Jobs Act, or the Former~~  
11 ~~Military Facility Development Act; and~~

12 ~~8.~~ Is not qualified for approval of an application for  
13 incentive payments under the Oklahoma Quality Jobs Program Act, the  
14 Saving Quality Jobs Act, or the Former Military Facility Development  
15 Act.

16 D. The Oklahoma Department of Commerce shall determine if an  
17 applicant is qualified to receive the incentive payment. Upon  
18 qualifying the applicant, the Department shall notify the Tax  
19 Commission and shall provide it with a copy of the application, and  
20 approval which shall provide the number of persons employed by the  
21 applicant upon the date of approval and the maximum total incentives  
22 which may be paid to the applicant during the seven-year period.  
23 The Tax Commission may require the qualified establishment to submit  
24 additional information as may be necessary to administer the

1 provisions of the Small Employer Quality Jobs Incentive Act. The  
2 approved establishment shall report to the Tax Commission quarterly  
3 to show its continued eligibility for incentive payments, as  
4 provided in Section 3905 of this title. Establishments may be  
5 audited by the Tax Commission to verify such eligibility. Once the  
6 establishment is approved, an agreement shall be deemed to exist  
7 between the establishment and the State of Oklahoma, requiring  
8 incentive payments to be made for a seven-year period as long as the  
9 establishment retains its eligibility and within the limitations of  
10 the Small Employer Quality Jobs Incentive Act which existed at the  
11 time of such approval. Any establishment which has been approved  
12 for incentive payments prior to July 1, 2002, shall continue to  
13 receive such payments pursuant to the laws as they existed prior to  
14 July 1, 2002, for any period of time of the original five-year  
15 period for such payments remaining after July 1, 2002.

16 E. For any contract executed by an establishment on or after  
17 August 2, 2018, five percent (5%) of the quarterly incentive payment  
18 amount shall be transferred by the Oklahoma Tax Commission to the  
19 Oklahoma Quick Action Closing Fund.

20 F. Before any incentive payment is made for any contract  
21 executed by an establishment on or after November 1, 2026, the  
22 Oklahoma Department of Commerce shall determine if the qualifying  
23 capital investment has occurred or the out-of-state sales threshold  
24 has been achieved. The Oklahoma Department of Commerce shall notify

1 the Tax Commission upon approval by the Oklahoma Department of  
2 Commerce. If this approval has not occurred within thirty-six (36)  
3 months of the application date, the contract shall be cancelled by  
4 the Oklahoma Department of Commerce and no incentive shall be paid.

5 SECTION 3. This act shall become effective July 1, 2026.

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

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