ENGROSSED SENATE
BILL NO. 1403 By: Rader of the Senate

and

Pae of the House

An Act relating to incentives; amending 68 O.S. 2021, Sections 3604, as last amended by Section 157, Chapter 452, O.S.L. 2024, 3604.1, 3606, as last amended by Section 2, Chapter 29, 1st Extraordinary Session, O.S.L. 2023, 3905, 3914, and 3915 (68 O.S. Supp. 2025, Sections 3604 and 3606), which relate to quality jobs incentives; modifying wage requirement; modifying period for filing a claim for rebate; updating statutory language; updating statutory references; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 3604, as last amended by Section 157, Chapter 452, O.S.L. 2024 (68 O.S. Supp. 2025, Section 3604), is amended to read as follows:

Section 3604. A. Except as otherwise provided in subsection I or subsection L of this section, an establishment which meets the qualifications specified in the Oklahoma Quality Jobs Program Act may receive quarterly incentive payments for a ten-year period from 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~~ North American Industry Classification System (NAICS) Manual under U.S. Industry No. 711211

(2007 version) may receive quarterly incentive payments for a thirty-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. For an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version) that entered into a contract pursuant to the Oklahoma Quality Jobs Program Act with the Oklahoma Department of Commerce before ~~the effective date of this act~~ <u>November 1, 2023</u>:

1. The contract shall be extended from fifteen (15) years to thirty (30) years; and

2. The extension shall not include additional money awarded but shall allow for payments to continue for the thirty-year period, or until the net benefit for the new direct jobs for the original contract has been fully paid out as calculated based upon the original application.

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

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

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

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

a. have an annual gross payroll for new direct jobs projected by the Department to equal or exceed One Million Five Hundred Thousand Dollars ($1,500,000.00) within three (3) years of the first complete calendar quarter following the start date and make, or which will make within one (1) year, at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of Section 3603 of this title, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government, unless the annual gross payroll equals or exceeds Two Million Five Hundred Thousand Dollars ($2,500,000.00) in which case the requirements for purchase of output provided by this subparagraph shall not apply, and

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

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

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

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

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

a. is a federal Superfund removal site,

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

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

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

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

2. In order to qualify for the incentive payments pursuant to this subsection, the establishment shall conduct the activity resulting in at least fifty percent (50%) of its Oklahoma taxable

income or adjusted gross income, as determined under Section 2358 of this title, whether from the sale of products or services or both products and services, at the physical location which has been determined not to comply with the federal or state statutes described in this subsection with respect to environmental conditions for real property. The establishment shall be subject to all other requirements of the Oklahoma Quality Jobs Program Act other than the exemptions provided by this subsection.

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

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

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

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

4. If authorized by the Department of Environmental Quality pursuant to paragraph 3 of this subsection, the entity may utilize a remediated portion of the property for its intended purpose prior to

remediation of the remainder of the site, and shall qualify for incentive payments based on employment associated with the portion of the site.

F. Except as otherwise provided by subsection G of this section, for applications submitted on and after June 4, 2003, in order to qualify to receive incentive payments as authorized by the Oklahoma Quality Jobs Program Act, in addition to other qualifications specified herein, an establishment shall be required to pay new direct jobs an average annualized wage which equals or exceeds:

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

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

Provided, for applications submitted before January 1, 2027, no average wage requirement shall exceed Twenty-five Thousand Dollars ($25,000.00), in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the ~~U.S.~~ United States Department of Commerce.

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

2. As used in this subsection:

a. "negative economic event" means:

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

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

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

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

H. The Oklahoma Department of Commerce shall determine if the applicant is qualified to receive incentive payments.

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

J. Upon approval of such an application, the Department shall notify the Tax Commission and shall provide it with a copy of the contract and the results of the ~~cost/benefit~~ cost-benefit analysis. The Tax Commission may require the qualified establishment to submit such additional information as may be necessary to administer the provisions of the Oklahoma Quality Jobs Program Act. The approved establishment shall file quarterly claims with the Tax Commission and shall continue to file such quarterly claims during the ten-year incentive period to show its continued eligibility for incentive payments, as provided in Section 3606 of this title, or until it is no longer qualified to receive incentive payments. The establishment may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring the continued incentive payment to be made as long as the establishment retains its eligibility as defined in and established pursuant to this section and Sections 3603 and 3606 of this title and within the limitations contained in the Oklahoma Quality Jobs Program Act, which existed at the time of such approval. An establishment described in this subsection shall be required to repay all incentive payments received under the Oklahoma Quality Jobs Program Act if the establishment is determined by the Oklahoma Tax Commission to no longer have business operations in the state within three (3) years from the beginning of the calendar quarter for which the first incentive payment claim is filed.

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

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

SECTION 2. AMENDATORY 68 O.S. 2021, Section 3604.1, is amended to read as follows:

Section 3604.1. A. A qualified federal contractor may receive quarterly incentive payments for renewable ten-year periods from the

Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Jobs Program Act and the provisions of this section.

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

1. Not exceed twenty-five ~~hundredths~~ one-hundredths of one percent (0.25%) when annual qualified subcontract labor hours are less than Two Hundred Thousand Dollars ($200,000.00) or when annual qualified subcontract labor is less than one percent (1%) of the annual total qualified labor hours claimed;

2. Not be less than five-tenths of one percent (0.5%) when subcontract goals are met with a minimum of Two Hundred Thousand Dollars ($200,000.00) of annual total qualified subcontractor labor

hours and these hours are a minimum of one percent (1%) of the annual total qualified hours claimed;

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

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

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

C. In order to receive incentive payments, a qualified federal contractor shall apply to the Oklahoma Department of Commerce within one hundred eighty (180) days following the date of the award of a qualified federal contract or award of a new qualified subcontract under an existing qualified federal contract. 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. Once qualified by the Department, the applicant shall submit qualified federal contracts to the federal contract verifier. The federal contract verifier shall establish with the applicant an information system(s) or contract(s) as may be required to certify the total qualified labor hours, qualified labor rates, and reimbursement through the qualified federal contract. A qualified federal contractor 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. No state agency shall be required to make any payment to a qualified federal contract verifier for any information needed by the agency to perform any duty imposed upon it pursuant to the provisions of Section 3601 et seq. of this title. All costs for the federal contract verifier shall be reimbursed through value-added services on the qualified federal contract or other mechanisms agreed to by the federal contractor verifier and the federal contract performers.

D. In order to qualify to receive incentive payments as authorized by the Oklahoma Quality Jobs Program Act, in addition to other qualifications specified herein, a qualified federal contractor shall be required to pay direct jobs an average annualized wage which equals or exceeds:

1. One hundred ten percent (110%) of the average county wage as determined by the Oklahoma Department of Commerce based on the most recent ~~U.S.~~ United States Department of Commerce data for the county

in which the new direct jobs are located. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall be included in the annualized wage; or

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

Provided, for applications submitted before January 1, 2027, no average wage requirement shall exceed Twenty-nine Thousand Four Hundred Nine Dollars ($29,409.00), in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the ~~U.S.~~ United States Department of Commerce.

3. For qualified subcontractor work, the qualified federal contractor shall have a minimum average qualified labor rate requirement paid to the subcontractor of Thirty-one Dollars ($31.00) per hour, in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer

Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the ~~U.S.~~ United States Department of Commerce.

E. The Oklahoma Department of Commerce shall determine if the applicant is qualified to receive incentive payments using information supplied to the Department by the qualified federal contractor verifier. The ~~NAICS~~ North American Industry Classification System (NAICS) code or codes under which the federal government awarded the qualified federal contract shall be used to determine the basic industry for a qualified federal contractor. For federal contracts awarded under NAICS codes not within the definition of basic industry pursuant to paragraph 1 of subsection A of Section 3603 of this title, the Oklahoma Department of Commerce, with the federal contract verifier, may evaluate and utilize individual statement of work items that would qualify within a basic industry definition.

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

G. Upon approval of such an application, the Department shall notify the Tax Commission and shall provide it with a copy of the contract that has been cosigned by the federal contractor verifier and the results of the ~~cost/benefit~~ cost-benefit analysis. The Tax Commission may require the qualified federal contractor, federal contract verifier, and qualified subcontractors to submit such additional information as may be necessary to administer the provisions of the Oklahoma Quality Jobs Program Act. The approved qualified federal contractor shall file quarterly claims with the Tax Commission and shall continue to file such quarterly claims during the ten-year incentive period to show its continued eligibility for incentive payments, as provided in Section 3606 of this title, or until it is no longer qualified to receive incentive payments. The qualified federal contractor may be audited by the Tax Commission to verify such eligibility. Once the qualified federal contractor is approved, an agreement shall be deemed to exist between the qualified federal contractor and ~~the State of Oklahoma~~ this state, requiring the continued incentive payment to be made as long as the qualified federal contractor retains its eligibility as defined in and established pursuant to this section and Sections 3603 and 3606 of this title and within the limitations contained in the Oklahoma Quality Jobs Program Act, which existed at the time of such approval.

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

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

J. Before approving a quarterly incentive payment for a qualified federal contract, the federal contract verifier must first determine through the Department that neither the qualified federal contractor nor the subcontractor are receiving incentive payments under the Oklahoma Quality Jobs Program Act, ~~the Saving Quality Jobs Act,~~ the 21st Century Quality Jobs Incentive Act or the Former Military Facility Development Act for the performance of the same such services under the qualified federal contract and is not qualified for approval of an application for incentive payments under the Oklahoma Quality Jobs Program Act, ~~the Saving Quality Jobs Act,~~ the 21st Century Quality Jobs Incentive Act or the Former Military Facility Development Act for the performance of the same such services under the qualified federal contract. If the qualified federal contractor or the subcontractor ~~are~~ is receiving or ~~have~~ has an approved application for incentive payments under the Oklahoma Quality Jobs Program Act, ~~the Saving Quality Jobs Act,~~ the 21st Century Quality Jobs Incentive Act or the Former Military Facility Development Act for the performance of the same such services under the qualified federal contract, each may choose to defer in part or in entirety the other incentives for the qualified federal contractor to receive the incentives pursuant to subsection

B of this section. The federal contract verifier shall confirm any deferrals and ensure the total for all quality jobs incentive payments on any individual does not exceed the total net benefit to the state. Should neither the federal contractor nor the subcontractor defer in part or in entirety their incentive payments such that the total for all ~~Quality Jobs~~ quality jobs incentive payments exceeds the total net benefit to the state, the priority for incentive payments shall go to the entity with the earliest recognized start date ~~indentified~~ identified within the current Oklahoma Department of Commerce ~~Quality Jobs~~ quality jobs contract.

SECTION 3. AMENDATORY 68 O.S. 2021, Section 3606, as last amended by Section 2, Chapter 29, 1st Extraordinary Session, O.S.L. 2023 (68 O.S. Supp. 2025, Section 3606), is amended to read as follows:

Section 3606. A. ~~As soon as practicable~~ Within one (1) year after the end of the first complete calendar quarter following the start date, the establishment shall file a claim for the payment with the Oklahoma Tax Commission and shall specify the actual number and gross payroll of new direct jobs for the establishment for the calendar quarter. The Tax Commission shall verify the actual gross payroll for new direct jobs for the establishment for such calendar quarter. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request such additional information from the establishment as may be necessary or may request the establishment to revise its claim. An establishment may file for an extension of the initial filing date with the Oklahoma Department of Commerce. Any such extension shall be based solely upon an extraordinary adverse business circumstance which prevented the establishment from hiring the new direct jobs as projected. If an establishment fails to file claims as required by this section, it shall forfeit the right to receive any incentive payments after three (3) years from the start date. If an establishment has filed at least one claim pursuant to this section but fails to file another claim within two (2) years of the most recent claim, the Tax Commission, after consulting with the Oklahoma Department of Commerce, may dismiss the establishment from the program, forfeiting the establishment’s right to receive incentive payments based on that contract.

B. 1. Except as otherwise provided in paragraph 2 of this subsection, if the actual verified gross payroll for four (4) consecutive calendar quarters does not equal or exceed the applicable total required by Section 3604 of this title within three (3) years of the start date, or does not equal or exceed the applicable total required by Section 3604 of this title at any other time during the ten-year period after the start date or during the thirty-year period after the start date for establishments defined or classified in the ~~NAICS~~ North American Industry Classification System (NAICS) Manual under U.S. Industry No. 711211 (2007 version), the incentive payments shall not be made and shall not be resumed until such time as the actual verified gross payroll equals or exceeds the amounts specified in Section 3604 of this title. If an establishment fails to achieve the required gross payroll within three (3) years of the start date, the establishment shall not make a new or renewal application for incentive payments authorized pursuant to the Oklahoma Quality Jobs Program Act for a period of twelve (12) months from the last day of the last month of the three-year period during which the required gross payroll amount was not achieved.

2. Any establishment which does not meet the quarterly payroll requirements provided pursuant to paragraph 1 of this subsection during the time period which begins on April 1, 2020, and ends on June 30, 2021, shall continue to receive incentive payments and shall be exempt from the prescribed limitations.

C. If the average annualized wage required for an establishment does not equal or exceed the amount specified in paragraph 1 or 2 of subsection F of Section 3604 of this title during any calendar quarter, the incentive payments shall not be made and shall not be resumed until such time as such requirements are met.

D. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits, except for establishments subject to the provisions of subparagraph d of paragraph 7 of subsection A of Section 3603 of this title.

E. An establishment that has qualified pursuant to Section 3604 of this title may receive payments only in accordance with the provisions of the law under which it initially applied and was approved. If an establishment that is receiving incentive payments expands, it may apply for additional incentive payments based on the gross payroll anticipated from the expansion only, pursuant to Section 3604 of this title. Provided, an establishment which has suffered an extraordinary adverse business circumstance, as certified by the Incentive Approval Committee, may be allowed to voluntarily withdraw from the Oklahoma Quality Jobs Program, repay to the Tax Commission the total amount of incentive payments received pursuant to the provisions of this section, plus interest at the rate specified in Section 727.1 of Title 12 of the Oklahoma Statutes, and reapply to the Department for a new incentive contract if the establishment qualifies pursuant to the provisions of the Oklahoma Quality Jobs Program Act. Any funds received by the Tax Commission pursuant to the provisions of this subsection shall be apportioned in the manner that income tax revenues are apportioned.

F. An establishment that is receiving incentive payments may not apply for additional incentive payments for any new projects until twelve (12) quarters after receipt of the first incentive payment, or until the establishment's actual verified gross payroll for new direct jobs equals or exceeds Two Million Five Hundred Thousand Dollars ($2,500,000.00) during any four consecutive-calendar-quarter period, whichever comes first. After meeting the requirements of this subsection, an establishment may apply for additional incentive payments based upon the gross payroll anticipated from an expansion only.

G. As soon as practicable after verification of the actual gross payroll as required by this section and except as otherwise provided by subsection K of Section 3604 of this title, the Tax Commission shall issue a warrant to the establishment in the amount of the net benefit rate multiplied by the actual gross payroll as determined pursuant to subsection A of this section for the calendar quarter.

SECTION 4. AMENDATORY 68 O.S. 2021, Section 3905, is amended to read as follows:

Section 3905. A. 1. Beginning with the first complete calendar quarter after the application of the establishment is approved by the Oklahoma Department of Commerce, the establishment shall begin filing quarterly reports with the Oklahoma Tax Commission that specify the actual number and individual gross taxable payroll of new direct jobs for the establishment and such other information as required by the Tax Commission. In no event shall the first claim for incentive payments be filed later than ~~three (3) years~~ one (1) year from the start date designated by the Department. The Tax Commission shall verify the actual individual gross taxable payroll for new direct jobs. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request additional information from the establishment as may be necessary or may request the establishment to revise its reports.

The establishment shall continue filing such reports during the seven-year incentive period or until it is no longer qualified to receive incentive payments. Such reports shall constitute a claim for quarterly incentive payments by the establishment.

2. Upon receipt of a report for the initial calendar quarter of the incentive period and for each subsequent calendar quarter thereafter, the Tax Commission shall determine if the establishment has met the following requirements:

a. created ~~and~~ or maintained the minimum number of new direct jobs as specified in paragraph 3 of subsection C of Section 3904 of this title, and

b. paid the individuals it employed in new direct jobs an annualized wage which equaled or exceeded the applicable percentage of the average county wage as that percentage was determined by the Oklahoma Department of Commerce upon approval of the application.

3. Upon determining that an establishment has met the requirements of paragraph 2 of this subsection for the initial calendar quarter of the incentive period, the Tax Commission shall

issue a warrant to the establishment in an amount which shall be equal to the net benefit rate multiplied by the amount of gross taxable payroll of new direct jobs actually paid by the establishment.

B. Except as provided in subsection C of this section, the quarterly incentive payment provided for in subsection A of this section shall be allowed in each of the twenty-seven subsequent calendar quarters.

C. 1. An establishment which does not meet the requirements of paragraph 2 of subsection A of this section within twelve (12) months of the date of its application, or after July 1, 2011, within twenty-four (24) months of the date of its application, shall be ineligible to receive any incentive payments pursuant to its application and approval.

2. An establishment which at any time during the twenty-seven subsequent calendar quarters does not meet the requirements of paragraph 2 of subsection A of this section shall be ineligible to receive an incentive payment during the calendar quarter in which such requirements are not met.

SECTION 5. AMENDATORY 68 O.S. 2021, Section 3914, is amended to read as follows:

Section 3914. A. Except for the payment amount required by subsection E of this section, an establishment which meets the qualifications specified in the 21st Century Quality Jobs Incentive

Act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of ~~this act~~ the 21st Century Quality Jobs Incentive Act, as verified by the Tax Commission, in an amount equal to:

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

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

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. The establishment may apply for an effective date for a project, which shall not be more than twelve (12) months from the date the application is submitted to the Department.

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

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

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

3. Will pay the individuals it employs in new direct jobs an average annualized wage which equals or exceeds three hundred percent (300%) of the average county wage for the county in which the applicant is located as that percentage is determined by the Oklahoma Department of Commerce based on the most recent ~~U.S.~~ United States Department of Commerce data. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage. Provided, for applications submitted before January 1, 2027, no average wage requirement shall exceed Ninety-four Thousand Dollars ($94,000.00) in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the ~~U.S.~~ United States Department of Commerce;

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

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

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

D. The Oklahoma Department of Commerce shall determine if an applicant is qualified to receive the incentive payment. Upon qualifying the applicant, the Department shall notify the Tax Commission and shall provide it with a copy of the contract and approval which shall provide the number of persons employed by the applicant upon the date of approval and the maximum total incentives which may be paid to the applicant during the ten-year period. The Tax Commission may require the qualified establishment to submit additional information as may be necessary to administer the provisions of ~~this act~~ the 21st Century Quality Jobs Incentive Act. The approved establishment shall report to the Tax Commission quarterly to show its continued eligibility for incentive payments, as provided in Section 3905 of this title. Establishments may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring incentive payments to be made for a ten-year period as long as the establishment retains its eligibility and within the limitations of ~~this act~~ the 21st Century Quality Jobs Incentive Act as it existed at the time of such approval.

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

SECTION 6. AMENDATORY 68 O.S. 2021, Section 3915, is amended to read as follows:

Section 3915. A. 1. Beginning with the first complete calendar quarter after the application of the establishment is approved by the Oklahoma Department of Commerce, the establishment shall begin filing quarterly reports with the Oklahoma Tax Commission that specify the actual number and individual gross taxable payroll of new direct jobs for the establishment and such other information as required by the Tax Commission. In no event shall the first claim for incentive payments be filed later than ~~three (3) years~~ one (1) year from the start date designated by the Department. The Tax Commission shall verify the actual individual gross taxable payroll for new direct jobs. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request additional information from the establishment as may be necessary or may request the establishment to revise its reports.

The establishment shall continue filing such reports during the ten-year incentive period or until it is no longer qualified to receive incentive payments. Such reports shall constitute a claim for quarterly incentive payments by the establishment.

2. Upon receipt of a report for the initial calendar quarter of the incentive period and for each subsequent calendar quarter thereafter, the Tax Commission shall determine if the establishment has met the following requirements:

a. during the initial twelve (12) quarters of the contract or until the establishment creates ten new direct jobs, paid the individuals it employed in new direct jobs an average annualized wage that exceeded the requirements of paragraph 3 of subsection C of Section 3914 of this title, or

b. after the establishment created ten new direct jobs:

(1) paid the individuals it employed in new direct jobs an average annualized wage which equaled or exceeded the requirements of paragraph 3 of subsection C of Section 3914 of this title, and

(2) created ~~and/or~~ <u>or</u> maintained the minimum number of new direct jobs as specified in the 21st Century Quality Jobs Incentive Act.

3. Upon determining that an establishment has met the requirements of paragraph 2 of this subsection for the initial calendar quarter of the incentive period, the Tax Commission shall

issue a warrant to the establishment in an amount which shall be equal to either:

a. the initial net benefit rate multiplied by the amount of gross taxable payroll of new direct jobs actually paid by the establishment during the initial twelve (12) quarters of the contract or until the establishment reaches ten new direct jobs, whichever comes first, or

b. the fulfillment net benefit rate multiplied by the amount of gross taxable payroll of new direct jobs actually paid by the establishment after it creates or maintains ten new direct jobs.

B. Except as provided in subsection C of this section, the quarterly incentive payment provided for in subsection A of this section shall be allowed in each of the thirty-nine (39) subsequent calendar quarters.

C. 1. An establishment which does not meet the requirements of paragraph 2 of subsection A of this section within twelve (12) quarters of the date of its application shall be ineligible to receive any incentive payments pursuant to its application and approval.

2. An establishment which at any time during the thirty-nine (39) subsequent calendar quarters does not meet the requirements of paragraph 2 of subsection A of this section shall be ineligible to

receive an incentive payment during the calendar quarter in which such requirements are not met.

3. An establishment which has met the requirements of paragraph 2 of subsection A of this section within twelve (12) quarters of the date of its application, but which at any time during the subsequent twenty-eight (28) quarters fails to meet the requirements of paragraph 2 of subsection A of this section in four (4) consecutive quarters, shall be ineligible to receive any further incentive payments pursuant to its application and approval.

SECTION 7. This act shall become effective November 1, 2026.

Passed the Senate the 10th day of March, 2026.

____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of __________, 2026.

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Presiding Officer of the House of Representatives