

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 4191

By: Chapman

6 AS INTRODUCED

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

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

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

18 Section 3903. As used in the Small Employer Quality Jobs
19 Incentive Act:

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

1 this title. Provided, for the purposes of the Small Employer
2 Quality Jobs Incentive Act, the determination required by
3 subdivision (b) of division (7) or division (8) of subparagraph a of
4 paragraph 1 of subsection A of Section 3603 of this title shall be
5 made by the Oklahoma Department of Commerce and not the Incentive
6 Approval Committee;

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

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

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

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

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

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

5 7. "Gross taxable payroll" means wages, as defined in Section
6 2385.1 of this title, for new direct jobs;

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

9 a. the net benefit rate may be variable and shall not
10 exceed five percent (5%), and

11 b. in no event shall incentive payments, cumulatively,
12 exceed the estimated net direct state benefits; and

13 9. "New direct job" means full-time employment which did not
14 exist in this state prior to the date of approval, by the Oklahoma
15 Department of Commerce, of an application made pursuant to the Small
16 Employer Quality Jobs Incentive Act. A job shall be deemed to exist
17 in this state prior to approval of an application if the activities
18 and functions for which the particular job exists have been ongoing
19 at any time within six (6) months prior to such approval; and

20 10. "Qualifying capital investment" means new construction of
21 real property, new renovation of existing real property, or purchase
22 of new machinery used in the manufacturing process that occurs after
23 the date of application. It does not include purchase of existing
24 real property.

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

3 Section 3904. A. An establishment which meets the
4 qualifications specified in the Small Employer Quality Jobs
5 Incentive Act may receive quarterly incentive payments for a seven-
6 year period from the Oklahoma Tax Commission pursuant to the
7 provisions of the Small Employer Quality Jobs Incentive Act in an
8 amount equal to the net benefit rate multiplied by the actual gross
9 taxable payroll of new direct jobs as verified by the Tax
10 Commission.

11 B. In order to receive incentive payments, an establishment
12 shall apply to the Oklahoma Department of Commerce. The application
13 shall be on a form prescribed by the Department and shall contain
14 such information as may be required by the Department to determine
15 if the applicant is qualified. The establishment may apply for an
16 effective date for a project, which shall not be more than twelve
17 (12) months from the date the application is submitted to the
18 Department.

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

22 1. Be engaged in a basic industry;
23 2. Has no more than five hundred full-time employees in this
24 state on the date of application nor an average of more than five

1 hundred full-time employees in this state during the four calendar
2 quarters immediately preceding the date of application;

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

7 a. if the establishment is located in a municipality with
8 a population less than ~~three thousand five hundred~~
9 ~~(3,500)~~ fifty thousand (50,000) persons, as determined
10 by the Department of Commerce based on the most recent
11 U.S. Department of Commerce data, or if the
12 establishment is located in an unincorporated area and
13 the ~~largest~~ closest municipality within twenty (20)
14 miles of the establishment is such a municipality, new
15 direct jobs equal to the greater of five (5) jobs or
16 five percent (5%) of the company's full-time
17 employment at the date of application, and

18 b. ~~if the establishment is located in a municipality with~~
19 ~~a population of three thousand five hundred (3,500)~~
20 ~~persons or more but less than seven thousand (7,000)~~
21 ~~persons, as determined by the Department of Commerce~~
22 ~~based on the most recent U.S. Department of Commerce~~
23 ~~data, or if the establishment is located in an~~
24 ~~unincorporated area and the largest municipality~~

1 within twenty (20) miles of the establishment is such
2 a municipality, new direct jobs equal to the greater
3 of ten (10) jobs or seven and one half percent (7.5%)
4 of the company's full-time employment at the date of
5 the application, and

6 e. if the establishment is located in a municipality with
7 a population of ~~seven thousand~~ (7,000) fifty thousand
8 (50,000) persons or more, as determined by the
9 Department of Commerce based on the most recent U.S.
10 Department of Commerce data, or if the establishment
11 is located in an unincorporated area and the ~~largest~~
12 closest municipality within twenty (20) miles of the
13 establishment is such a municipality, new direct jobs
14 equal to the greater of ~~fifteen~~ (15) ten (10) jobs or
15 ten percent (10%) of the company's full-time
16 employment at the date of application.

17 Provided, for an establishment engaged in software publishing as
18 defined or classified in the NAICS Manual under Industry Group No.
19 5112, data processing, hosting and related services as defined or
20 classified in the NAICS Manual under Industry Group No. 5182,
21 computer systems design and related services as defined or
22 classified in the NAICS Manual under Industry Group No. 5415,
23 scientific research and development services as defined or
24 classified in the NAICS Manual under Industry Group No. 5417,

1 medical and diagnostic laboratories as defined or classified in the
2 NAICS Manual under Industry Group No. 6215 or testing laboratories
3 as defined or classified in the NAICS Manual under U.S. Industry No.
4 541380, the projected minimum employment requirements of this
5 paragraph must be achieved within thirty-six (36) months of the date
6 of application;

7 4. Has ~~or will have within twelve (12) months of the date of~~
8 ~~application, or after July 1, 2011,~~ within twenty-four (24) months
9 of the date of application, as determined by the Department,
10 qualifying capital investment greater than Five Hundred Thousand
11 Dollars (\$500,000.00) or sales of at least thirty-five percent (35%)
12 for the first two (2) years and ~~subsequently sixty percent (60%) of~~
13 ~~its total sales to out-of-state customers or buyers, to in-state~~
14 ~~customers or buyers if the product or service is resold by the~~
15 ~~purchaser to an out-of-state customer or buyer for ultimate use, or~~
16 ~~to the federal government, of its total sales to out-of-state~~
17 ~~customers or buyers, to in-state customers or buyers if the product~~
18 ~~or service is resold by the purchaser to an out-of-state customer or~~
19 ~~buyer for ultimate use, or to the federal government except that:~~

20 a. those establishments in the NAICS Manual under the
21 U.S. Industry No. 541710 or 541380 are excused from
22 the out-of-state sales requirement, and
23 b. ~~warehouses that serve as distribution centers for~~
24 ~~retail or wholesale businesses shall be required to~~

1 ~~distribute forty percent (40%) of inventory to out-of-~~
2 ~~state locations, and~~

3 e. adjustment and collection services activities defined
4 or classified in the NAICS Manual under U.S. Industry
5 No. 561440 shall be required to have seventy-five
6 percent (75%) of loans to be serviced made by out-of-
7 state debtors;

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

10 a. one hundred twenty-five percent (125%) of the average
11 county wage of small employers located in that county
12 as that percentage is determined by the Department of
13 Commerce based on the most recent wage and employment
14 data from the Oklahoma Employment Security Commission
15 for the county in which the new direct jobs are
16 located. For purposes of this subparagraph, health
17 care premiums paid by the applicant for individuals in
18 new direct jobs shall be included in the annualized
19 wage, or

20 b. one hundred ten percent (110%) of the average county
21 wage of small employers located in that county as that
22 percentage is determined by the Department of Commerce
23 based upon the most recent wage and employment data
24 from the Oklahoma Employment Security Commission for

the county in which the new direct jobs are located.

For purposes of this subparagraph, health care premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage, or

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

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

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

6. 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; and

1 7. Has not received incentive payments under the Oklahoma
2 Quality Jobs Program Act, the Saving Quality Jobs Act, or the Former
3 Military Facility Development Act;

4 8. Is not qualified for approval of an application for
5 incentive payments under the Oklahoma Quality Jobs Program Act, the
6 Saving Quality Jobs Act, or the Former Military Facility Development
7 Act.

8 D. The Oklahoma Department of Commerce shall determine if an
9 applicant is qualified to receive the incentive payment. Upon
10 qualifying the applicant, the Department shall notify the Tax
11 Commission and shall provide it with a copy of the application, and
12 approval which shall provide the number of persons employed by the
13 applicant upon the date of approval and the maximum total incentives
14 which may be paid to the applicant during the seven-year period.

15 The Tax Commission may require the qualified establishment to submit
16 additional information as may be necessary to administer the
17 provisions of the Small Employer Quality Jobs Incentive Act. The
18 approved establishment shall report to the Tax Commission quarterly
19 to show its continued eligibility for incentive payments, as
20 provided in Section 3905 of this title. Establishments may be
21 audited by the Tax Commission to verify such eligibility. Once the
22 establishment is approved, an agreement shall be deemed to exist
23 between the establishment and the State of Oklahoma, requiring
24 incentive payments to be made for a seven-year period as long as the

1 establishment retains its eligibility and within the limitations of
2 the Small Employer Quality Jobs Incentive Act which existed at the
3 time of such approval. Any establishment which has been approved
4 for incentive payments prior to July 1, 2002, shall continue to
5 receive such payments pursuant to the laws as they existed prior to
6 July 1, 2002, for any period of time of the original five-year
7 period for such payments remaining after July 1, 2002.

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

12 F. Before any incentive payment is made for any contract
13 executed by an establishment on or after November 1, 2026, the
14 Oklahoma Department of Commerce shall determine if the qualifying
15 capital investment has occurred or the out-of-state sales threshold
16 has been achieved. The Department of Commerce shall notify the Tax
17 Commission upon approval by the Oklahoma Department of Commerce. If
18 this approval has not occurred within thirty-six (36) months of the
19 application date, the contract shall be cancelled by the Department
20 of Commerce and no incentive shall be paid.

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

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