

An Act

ENROLLED HOUSE
BILL NO. 2768

By: Caldwell (Trey) and Kane of
the House

and

Hall and Haste of the
Senate

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; and increasing certain limitation caps related to qualifying investment amounts.

SUBJECT: Revenue and taxation

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 reports for the three (3) years prior to the irrevocable election filing date provided by Section 3658 of this title,
- b. has an average salary of at least Forty Thousand Dollars (\$40,000.00) paid to employees as of the

irrevocable election filing date provided by Section 3658 of this title,

- c. intends to add substantial gross compensation, as defined below, with respect to full-time-equivalent employment located in Oklahoma within three (3) years of filing an initial irrevocable election with the Oklahoma Department of Commerce pursuant to the provisions of subsection A of Section 3658 of this title,
 - d. has at least Two Hundred Million Dollars (\$200,000,000.00) total investment in Oklahoma,
 - e. intends to add investment for additional modernization and retooling of a facility located in the state, on or after the effective date of this act, of at least One Hundred Million Dollars (\$100,000,000.00), but for purposes of this act not in excess of an additional ~~Two Hundred Fifty Million Dollars (\$250,000,000.00)~~ ~~Seven Hundred Million Dollars (\$700,000,000.00)~~ within five (5) years of filing a second irrevocable election with the Oklahoma Department of Commerce pursuant to the provisions of subsection A of Section 3658 of this title, unless the establishment has completed at least eighty percent (80%) of the expenditures for the additional investment by the end of the five-year period in which case the establishment shall be allowed a one-year extension for completion of the investment,
 - f. for purposes of an initial irrevocable election filed prior to the effective date of this act, has and maintains at least one thousand five hundred fifty (1,550) full-time employees in the state, and
 - g. is described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual (SIC), latest revision;
2. "Gross compensation" means wages, as defined in Section 2385.1 of Title 68 of the Oklahoma Statutes, and benefits paid on behalf of employees receiving wages; and

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

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 filed until the last date upon which 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 as a result of obligations issued by the Oklahoma Development Finance Authority prior to the effective date of this act, the five-year period of time within which the establishment would otherwise be required to make investment pursuant to this act shall be extended.

C. Upon filing such second irrevocable election, any incentive payments which would have been paid to the establishment pursuant to the Oklahoma Quality Jobs Program Act after such filing shall be deposited to the Quality Jobs Program Incentive Leverage Fund. Such

incentive payments shall be treated as an asset of the establishment which has been paid to the State of Oklahoma for purposes of this act.

D. Beginning upon the later date of July 1, 2009, or the first date upon which the revenues payable to the Authority from the Quality Jobs Program Incentive Leverage Fund are no longer committed to the payment of debt service requirements and related costs in connection with obligations issued by the Authority pursuant to the Quality Jobs Incentive Leverage Act prior to the effective date of this act, and for each fiscal year thereafter as otherwise required by this act, monies transferred to the Quality Jobs Program Incentive Leverage Fund shall be used for the payment of principal and interest or other costs associated with the additional issuance of obligations by the Oklahoma Development Finance Authority pursuant to the provisions of Section 3654 of this title as a result of a second irrevocable election. Not later than January 1 and July 1 of each year, the Oklahoma Development Finance Authority shall certify to the Oklahoma Department of Commerce and the Oklahoma Tax Commission the amount which will be required for payment of principal, interest and other costs associated with the issuance of such obligations for the succeeding six-month period.

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

F. An establishment to which proceeds from the sale of any obligations issued by the Oklahoma Development Finance Authority are made available as provided by this act pursuant to a second irrevocable election shall not claim any tax credits that would

otherwise be authorized pursuant to Section 2357.4 of Title 68 of the Oklahoma Statutes as a result of jobs created or capital investment made as a direct result of the use of such bond proceeds. For purposes of this subsection and for purposes of computing any tax credit pursuant to Section 2357.4 of Title 68 of the Oklahoma Statutes, "bond proceeds" shall mean the amount transferred, paid or made available to the establishment together with the total amount of principal and interest paid by the Oklahoma Development Finance Authority with respect to any amount of proceeds transferred, paid or made available to the establishment.

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

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

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

Passed the House of Representatives the 20th day of May, 2025.

Presiding Officer of the House
of Representatives

Passed the Senate the 22nd day of May, 2025.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____
day of _____, 20_____, at _____ o'clock _____. M.
By: _____

Approved by the Governor of the State of Oklahoma this _____
day of _____, 20_____, at _____ o'clock _____. M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____
day of _____, 20_____, at _____ o'clock _____. M.
By: _____