

1 ENGROSSED SENATE
2 BILL NO. 586

3 By: Hall of the Senate

4 and

5 Kane of the House

6 An Act relating to incentives; amending 68 O.S. 2021,
7 Section 3603, which relates to the Oklahoma Quality
8 Jobs Program Act; modifying definition to establish
relationship between establishment and certain leased
or contracted employee; and providing an effective
date.

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

11 SECTION 1. AMENDATORY 68 O.S. 2021, Section 3603, is
12 amended to read as follows:

13 Section 3603. A. As used in the Oklahoma Quality Jobs Program
14 Act:

15 1. a. "Basic industry" means:

16 (1) those manufacturing activities defined or
17 classified in the NAICS Manual under Industry
18 Sector Nos. 31, 32 and 33, Industry Group No.

19 5111 or Industry No. 11331,

20 (2) those electric power generation, transmission and
21 distribution activities defined or classified in
22 the NAICS Manual under U.S. Industry Nos. 221111
23 through 221122, if:

- (a) an establishment engaged therein qualifies as an exempt wholesale generator as defined by 15 U.S.C., Section 79z-5a,
 - (b) the exempt wholesale generator facility consumes from sources located within the state at least ninety percent (90%) of the total energy used to produce the electrical output which qualifies for the specialized treatment provided by the Energy Policy Act of 1992, P.L. 102-486, 106 Stat. 2776, as amended, and federal regulations adopted pursuant thereto,
 - (c) the exempt wholesale generator facility sells to purchasers located outside the state for consumption in activities located outside the state at least ninety percent (90%) of the total electrical energy output which qualifies for the specialized treatment provided by the Energy Policy Act of 1992, P.L. 102-486, 106 Stat. 2776, as amended, and federal regulations adopted pursuant thereto, and
 - (d) the facility is constructed on or after July 1, 1996,

- (3) those administrative and facilities support service activities defined or classified in the NAICS Manual under Industry Group Nos. 5611 and 5612, Industry Nos. 51821, 519130, 52232 and 56142 or U.S. Industry Nos. 524291 and 551114, those other support activities for air transportation defined or classified in the NAICS Manual under Industry Group No. 488190, and those support, repair, and maintenance service activities for the wind industry defined or classified in the NAICS Manual under Industry Group No. 811310,
 - (4) those professional, scientific and technical service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 541710 and 541380,
 - (5) distribution centers for retail or wholesale businesses defined or classified in the NAICS Manual under Sector No. 42, if forty percent (40%) or more of the inventory processed through such warehouse is shipped out-of-state,
 - (6) those adjustment and collection service activities defined or classified in the NAICS Manual under U.S. Industry No. 561440, if

1 seventy-five percent (75%) of the loans to be
2 serviced were made by out-of-state debtors,

3 (7) (a) those air transportation activities defined
4 or classified in the NAICS Manual under
5 Industry Group No. 4811, if the following
6 facilities are located in this state:

7 (i) the corporate headquarters of an
8 establishment classified therein, and

9 (ii) a facility or facilities at which
10 reservations for transportation
11 provided by such an establishment are
12 processed, whether such services are
13 performed by employees of the
14 establishment, by employees of a
15 subsidiary of or other entity

16 affiliated with the establishment or by
17 employees of an entity with whom the
18 establishment has contracted for the
19 performance of such services; provided,
20 this provision shall not disqualify an
21 establishment which uses an out-of-
22 state entity or employees for some
23 reservations services, or

(b) those air transportation activities defined or classified in the NAICS Manual under Industry Group No. 4811, if an establishment classified therein has or will have within one (1) year sales of 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 this section, 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,

- (8) flight training services activities defined or classified in the NAICS Manual under U.S. Industry Group No. 611512, which for purposes of the Oklahoma Quality Jobs Program Act shall include new direct jobs for which gross payroll existed on or after January 1, 2003, as identified in the NAICS Manual,
- (9) the following, if an establishment classified therein has or will have within one (1) year sales of at least seventy-five percent (75%) of

1 its total sales, as determined by the Incentive
2 Approval Committee pursuant to the provisions of
3 subsection B of this section, to out-of-state
4 customers or buyers, to in-state customers or
5 buyers if the product or service is resold by the
6 purchaser to an out-of-state customer or buyer
7 for ultimate use, or to the federal government:

- 8 (a) those transportation and warehousing
9 activities defined or classified in the
10 NAICS Manual under Industry Subsector No.
11 493, if not otherwise listed in this
12 paragraph, Industry Subsector Nos. 482 and
13 484 and Industry Group Nos. 4884 through
14 4889,
- 15 (b) those passenger transportation activities
16 defined or classified in the NAICS Manual
17 under Industry Nos. 561510 and 561599,
- 18 (c) those freight or cargo transportation
19 activities defined or classified in the
20 NAICS Manual under Industry No. 541614,
- 21 (d) those insurance activities defined or
22 classified in the NAICS Manual under
23 Industry Group No. 5241,

- (e) those services to dwellings and other buildings, as defined or classified in the NAICS Manual under Industry Group No. 5617, excluding U.S. Industry Nos. 561730, 56171, 56172, 56174 and 56179,
 - (f) those equipment rental and leasing activities defined or classified in the NAICS Manual under Industry Group No. 5324,
 - (g) those information technology and other computer-related service activities defined or classified in the NAICS Manual under Industry Group Nos. 5112, 5182, 5191 and 5415,
 - (h) those business support service activities defined or classified in the NAICS Manual under U.S. Industry Nos. 561410 through 561430, excluding 56143, and Industry No. 51911,
 - (i) those medical and diagnostic laboratory activities defined or classified in the NAICS Manual under Industry Group No. 6215,
 - (j) those professional, scientific and technical service activities defined or classified in the NAICS Manual under Industry Group Nos.

1 5412, 5414, 5415, 5416 and 5417, Industry
2 Nos. 54131, 54133, 54136 and 54137, and U.S.
3 Industry No. 541990, if not otherwise listed
4 in this paragraph,

5 (k) those communication service activities
6 defined or classified in the NAICS Manual
7 under Industry Nos. 51741 and 51791,

8 (l) those refuse systems activities defined or
9 classified in the NAICS Manual under
10 Industry Group No. 5622, provided that the
11 establishment is primarily engaged in the
12 capture and distribution of methane gas
13 produced within a landfill,

14 (m) general wholesale distribution of groceries,
15 defined or classified in the NAICS Manual
16 under Industry Group Nos. 4244 and 4245,

17 (n) those activities relating to processing of
18 insurance claims, defined or classified in
19 the NAICS Manual under U.S. Industry Nos.
20 524210 and 524292; provided, activities
21 described in U.S. Industry Nos. 524210 and
22 524292 in the NAICS Manual other than
23 processing of insurance claims shall not be
24 included for purposes of this subdivision,

- (o) those agricultural activities classified in the NAICS Manual under U.S. Industry Nos. 112120 and 112310,
 - (p) those professional organization activities classified in the NAICS Manual under U.S. Industry No. 813920,
 - (q) alternative energy structure construction classified in the NAICS Manual under U.S. Industry No. 237130,
 - (r) solar reflective coating application classified in the NAICS Manual under U.S. Industry No. 238160,
 - (s) solar heating equipment installation classified in the NAICS Manual under U.S. Industry No. 238220,
 - (t) those wired telecommunications carriers classified in the NAICS Manual under U.S. Industry No. 517110, and
 - (u) those securities, commodity contracts and investment activities classified in the NAICS Manual under Industry Subsector No. 523,

(10) those activities related to extraction or pipeline transportation of petroleum, natural gas

1 or refined petroleum products, defined or
2 classified in the NAICS Manual under Industry
3 Group No. 2111, 213111, 213112 or 486, subject to
4 the limitations provided in paragraph 3 of this
5 subsection and paragraph 3 of subsection B of
6 this section,

7 (11) those activities performed by the federal
8 civilian workforce at a facility of the Federal
9 Aviation Administration located in this state if
10 the Director of the Oklahoma Department of
11 Commerce determines or is notified that the
12 federal government is soliciting proposals or
13 otherwise inviting states to compete for
14 additional federal civilian employment or
15 expansion of federal civilian employment at such
16 facilities,

17 (12) those activities defined or classified in the
18 NAICS Manual under U.S. Industry No. 711211 (2007
19 version),

20 (13) those real estate or brokerage activities
21 classified in the NAICS Manual under U.S.
22 Industry No. 53120 for which at least seventy-
23 five percent (75%) of the establishment's
24 revenues are attributed to out-of-state sales and

1 at least seventy-five percent (75%) of the real
2 estate transactions generating those revenues are
3 attributed to real property located outside the
4 State of Oklahoma, or

5 (14) those support activities for rail transportation
6 and those support activities for water
7 transportation defined or classified in the NAICS
8 Manual under U.S. Industry Nos. 4882 and 4883.

9 b. An establishment described in subparagraph a of this
10 paragraph shall not be considered to be engaged in a
11 basic industry unless it offers, or will offer within
12 one hundred eighty (180) days of employment, a basic
13 health benefits plan to the individuals it employs in
14 new direct jobs in this state which is determined by
15 the Oklahoma Department of Commerce to consist of the
16 following elements or elements substantially
17 equivalent thereto:

- 18 (1) not more than fifty percent (50%) of the premium
19 shall be paid by the employee,
20 (2) coverage for basic hospital care,
21 (3) coverage for physician care,
22 (4) coverage for mental health care,
23 (5) coverage for substance abuse treatment,
24 (6) coverage for prescription drugs, and

(7) coverage for prenatal care;

2. "Change-in-control event" means the transfer to one or more

unrelated establishments or unrelated persons, of either:

a. beneficial ownership of more than fifty percent (50%)

in value and more than fifty percent (50%) in voting

power of the outstanding equity securities of the

transferred establishment, or

b. more than fifty percent (50%) in value of the assets

of an establishment.

A transferor shall be treated as related to a transferee if more

than fifty percent (50%) of the voting interests of the transferor

and transferee are owned, directly or indirectly, by the other or

are owned, directly or indirectly, by the same person or persons,

unless such transferred establishment has an outstanding class of

equity securities registered under Sections 12(b) or 15(d) of the

Securities Exchange Act of 1934, as amended, in which event the

transferor and transferee will be treated as unrelated; provided

establishment applying for the Oklahoma Quality Jobs Program Act as

a result of a change-in-control event is required to apply within

one hundred eighty (180) days of the change-in-control event to

qualify for consideration. An establishment entering the Oklahoma

Quality Jobs Program Act as the result of a change-in-control event.

shall be required to maintain a level of new direct jobs as agreed

to in its contract with the Oklahoma Department of Commerce and to

1 pay new direct jobs an average annualized wage which equals or
2 exceeds one hundred twenty-five percent (125%) of the average county
3 wage as that percentage is determined by the Oklahoma Department of
4 Commerce based upon the most recent U.S. Department of Commerce data
5 for the county in which the new jobs are located. For purposes of
6 this paragraph, healthcare premiums paid by the applicant for
7 individuals in new direct jobs shall not be included in the
8 annualized wage. Such establishment entering the Oklahoma Quality
9 Jobs Program Act as the result of a change-in-control event shall be
10 required to retain the contracted average annualized wage and
11 maintain the contracted maintenance level of new direct jobs numbers
12 as certified by the Tax Commission. If the required average
13 annualized wage or the required new direct jobs numbers do not equal
14 or exceed such contracted level during any quarter, the quarterly
15 incentive payments shall not be made and shall not be resumed until
16 such time as such requirements are met. An establishment described
17 in this paragraph shall be required to repay all incentive payments
18 received under the Oklahoma Quality Jobs Program Act if the
19 establishment is determined by the Tax Commission to no longer have
20 business operations in the state within three (3) years from the
21 beginning of the calendar quarter for which the first incentive
22 payment claim is filed;

23 3. "New direct job":

1 a. means full-time-equivalent employment in this state in
2 an establishment which has qualified to receive an
3 incentive payment pursuant to the provisions of the
4 Oklahoma Quality Jobs Program Act which employment did
5 not exist in this state prior to the date of approval
6 by the Department of the application of the
7 establishment pursuant to the provisions of Section
8 3604 of this title and with respect to an
9 establishment qualifying for incentive payments
10 pursuant to division (12) of subparagraph a of
11 paragraph 1 of this subsection shall not include
12 compensation paid to an employee or independent
13 contractor for an athletic contest conducted in the
14 state if the compensation is paid by an entity that
15 does not have its principal place of business in the
16 state or that does not own real or personal property
17 having a market value of at least One Million Dollars
18 (\$1,000,000.00) located in the state, and the
19 employees or independent contractors of such entity
20 are compensated to compete against the employees or
21 independent contractors of an establishment that
22 qualifies for incentive payments pursuant to division
23 (12) of subparagraph a of paragraph 1 of this
24 subsection and which is organized under Oklahoma law

1 or that is lawfully registered to do business in the
2 state and which does have its principal place of
3 business located in the state and owns real or
4 personal property having a market value of at least
5 One Million Dollars (\$1,000,000.00) located in the
6 state; provided, that if an application of an
7 establishment is approved by the Oklahoma Department
8 of Commerce after a change-in-control event and the
9 Director of the Oklahoma Department of Commerce
10 determines that the jobs located at such establishment
11 are likely to leave the state, "new direct job" shall
12 include employment that existed in this state prior to
13 the date of application which is retained in this
14 state by the new establishment following a change in
15 control event, if such job otherwise qualifies as a
16 new direct job, and

- 17 b. shall include full-time-equivalent employment in this
18 state of employees who are employed by an employment
19 agency or similar entity other than the establishment
20 which has qualified to receive an incentive payment
21 and who are leased or otherwise provided under
22 contract to the qualified establishment, if such job
23 did not exist in this state prior to the date of
24 approval by the Department of the application of the

1 establishment or the job otherwise qualifies as a new
2 direct job following a change-in-control event. The
3 leasing of employees by the establishment or employees
4 provided under contract with an establishment shall
5 constitute an employer-employee relationship between
6 those employees and the establishment. A job shall be
7 deemed to exist in this state prior to approval of an
8 application if the activities and functions for which
9 the particular job exists have been ongoing at any
10 time within six (6) months prior to such approval.
11 With respect to establishments defined in division
12 (10) of subparagraph a of paragraph 1 of this
13 subsection, new direct jobs shall be limited to those
14 jobs directly comprising the corporate headquarters of
15 or directly relating to manufacturing, maintenance,
16 administrative, financial, engineering, surveying,
17 geological or geophysical services performed by the
18 establishment. Under no circumstances shall
19 employment relating to field services be considered
20 new direct jobs;

21 4. "Estimated direct state benefits" means the tax revenues
22 projected by the Department to accrue to the state as a result of
23 new direct jobs;

1 5. "Estimated direct state costs" means the costs projected by
2 the Department to accrue to the state as a result of new direct
3 jobs. Such costs shall include, but not be limited to:

- 4 a. the costs of education of new state resident children,
- 5 b. the costs of public health, public safety and
6 transportation services to be provided to new state
7 residents,
- 8 c. the costs of other state services to be provided to
9 new state residents, and
- 10 d. the costs of other state services;

11 6. "Estimated net direct state benefits" means the estimated
12 direct state benefits less the estimated direct state costs;

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

- 15 a. except as otherwise provided in this paragraph, the
16 net benefit rate may be variable and shall not exceed
17 five percent (5%),
- 18 b. the net benefit rate shall not exceed six percent (6%)
19 in connection with an establishment which is owned and
20 operated by an entity which has been awarded a United
21 States Department of Defense contract for which:
 - 22 (1) bids were solicited and accepted by the United
23 States Department of Defense from facilities
24 located outside this state,

- (2) the term is or is renewable for not less than twenty (20) years, and
 - (3) the average annual salary, excluding benefits which are not subject to Oklahoma income taxes, for new direct jobs created as a direct result of the awarding of the contract is projected by the Oklahoma Department of Commerce to equal or exceed Forty Thousand Dollars (\$40,000.00) within three (3) years of the date of the first incentive payment,

c. except as otherwise provided in subparagraph d of this paragraph, in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits,

d. the net benefit rate shall be five percent (5%) for an establishment locating:

 - (1) in an opportunity zone located in a high-employment county, as such terms are defined in subsection G of Section 3604 of this title, or
 - (2) in a county in which:
 - (a) the per capita personal income, as determined by the Department, is eighty-five percent (85%) or less of the statewide average per capita personal income,

(b) the population has decreased over the previous ten (10) years, as determined by the Oklahoma Department of Commerce based on the most recent U.S. Department of Commerce data, or

(c) the unemployment rate exceeds the lesser of five percent (5%) or two percentage points above the state average unemployment rate as certified by the Oklahoma Employment Security Commission,

e. the net benefit rate shall not exceed six percent (6%)
in connection with an establishment which:

(1) is, as of the date of application, receiving incentive payments pursuant to the Oklahoma Quality Jobs Program Act and has been receiving such payments for at least one (1) year prior to the date of application, and

(2) expands its operations in this state by creating additional new direct jobs which pay average annualized wages which equal or exceed one hundred fifty percent (150%) of the average annualized wages of new direct jobs on which incentive payments were received during the preceding calendar year,

- 1 f. with respect to an establishment defined or classified
2 in the NAICS Manual under U.S. Industry No. 711211
3 (2007 version) or any establishment defined or
4 classified in the NAICS Manual as a U.S. Industry
5 Number which is not included within the definition of
6 “basic industry” as such term is defined in this
7 section on April 17, 2008, the net benefit rate shall
8 not exceed the highest rate of income tax imposed upon
9 the Oklahoma taxable income of individuals pursuant to
10 subparagraph (g) or subparagraph (h), as applicable,
11 of paragraph 1 and paragraph 2 of subsection B of
12 Section 2355 of this title. Any change in such
13 highest rate of individual income tax imposed pursuant
14 to the provisions of Section 2355 of this title shall
15 be applicable to the computation of incentive payments
16 to an establishment as described by this subparagraph
17 and shall be effective for purposes of incentive
18 payments based on payroll paid by such establishment
19 on or after January 1 of any applicable year for which
20 the net benefit rate is modified as required by this
21 subparagraph, and
- 22 g. the net benefit rate shall not exceed six percent (6%)
23 in connection with an establishment which employs
24 United States military veterans in at least ten

1 percent (10%) of its gross payroll. The net benefit
2 rate for an establishment which employs United States
3 military veterans in at least ten percent (10%) of its
4 payroll shall not be lower than five percent (5%).

5 Incentive payments made pursuant to the provisions of this
6 subparagraph shall be based upon payroll associated with such new
7 direct jobs. For purposes of this subparagraph, the amount of
8 health insurance premiums or other benefits paid by the
9 establishment shall not be included for purposes of computation of
10 the average annualized wage;

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

13 9. a. "Establishment" means any business or governmental
14 entity, no matter what legal form, including, but not
15 limited to, a sole proprietorship; partnership;
16 limited liability company; corporation or combination
17 of corporations which have a central parent
18 corporation which makes corporate management decisions
19 such as those involving consolidation, acquisition,
20 merger or expansion; federal agency; political
21 subdivision of the State of Oklahoma; or trust
22 authority; provided, distinct, identifiable subunits
23 of such entities may be determined to be an
24 establishment, for all purposes of the Oklahoma

Quality Jobs Program Act, by the Department subject to the following conditions:

- (1) within three (3) years of the first complete calendar quarter following the start date, the entity must have a minimum payroll of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) and the subunit must also have or will have a minimum payroll of Two Million Five Hundred Thousand Dollars (\$2,500,000.00),
 - (2) the subunit is engaged in an activity or service or produces a product which is demonstratively independent and separate from the entity's other activities, services or products and could be conducted or produced in the absence of any other activity, service or production of the entity,
 - (3) has an accounting system capable of tracking or facilitating an audit of the subunit's payroll, expenses, revenue and production. Limited interunit overlap of administrative and purchasing functions shall not disqualify a subunit from consideration as an establishment by the Department,
 - (4) the entity has not previously had a subunit determined to be an establishment pursuant to

this section; provided, the restriction set forth in this division shall not apply to subunits which qualify pursuant to the provisions of subparagraph b of paragraph 7 of this subsection, and

(5) it is determined by the Department that the entity will have a probable net gain in total employment within the incentive period.

- b. The Department may promulgate rules to further limit the circumstances under which a subunit may be considered an establishment. The Department shall promulgate rules to determine whether a subunit of an entity achieves a net gain in total employment. The Department shall establish criteria for determining the period of time within which such gain must be demonstrated and a method for determining net gain in total employment;

10. "NAICS Manual" means any manual, book or other publication containing the North American Industry Classification System, United States, 1997, promulgated by the Office of Management and Budget of the United States of America, or the latest revised edition;

11. "Qualified federal contract" means a contract between an agency or instrumentality of the United States government, including but not limited to the Department of Defense or any branch of the

1 United States Armed Forces, but exclusive of any contract performed
2 for the Federal Emergency Management Agency as a direct result of a
3 natural disaster declared by the Governor or the President of the
4 United States with respect to damage to property located in Oklahoma
5 or loss of life or personal injury to persons in Oklahoma, and a
6 lawfully recognized business entity, whether or not the business
7 entity is organized under the laws of the State of Oklahoma or
8 whether or not the principal place of business of the business
9 entity is located within the State of Oklahoma, for the performance
10 of services, including but not limited to testing, research,
11 development, consulting or other services in a basic industry, if
12 the contract involves the performance of such services performed on
13 or after July 1, 2009, by the employees of the business entity
14 within the State of Oklahoma or if the contract involves the
15 performance of such services performed on or after July 1, 2009, by
16 employees of a lawfully recognized business entity that is a
17 subcontractor of the business entity with which the prime contract
18 has been formed. A qualified federal contract described in this
19 paragraph shall not qualify unless both the qualified federal
20 contractor and any subcontractors originally involved in the work or
21 added subsequently during the period of performance verify to the
22 qualified federal contractor verifier that it offers, or will offer
23 within one hundred eighty (180) days of employment of its respective
24 employees, a basic health benefits plan as described in subparagraph

1 b of paragraph 1 of this subsection to individuals who perform
2 qualified labor hours in this state;

3 12. "Qualified federal contractor verifier" means a nonprofit
4 entity organized under the laws of the State of Oklahoma, having an
5 affiliation with a comprehensive university which is part of The
6 Oklahoma State System of Higher Education, and having the following
7 characteristics:

8 a. established multiyear classified and unclassified
9 indefinite-delivery/indefinite-quantity federal
10 contract vehicles in excess of Fifty Million Dollars
11 (\$50,000,000.00),

12 b. current capability to sponsor and maintain personnel
13 security clearances and authorized by the federal
14 government to handle and perform classified work up to
15 the Top Secret Sensitive Compartmented Information
16 levels,

17 c. at least one on-site federally certified Sensitive
18 Compartmented Information Facility,

19 d. on-site secure mass data storage complex with the
20 capability of isolating, segregating and protecting
21 corporate proprietary and classified information,

22 e. trusted agent status by maintaining no ownership of,
23 vested interest in, nor royalty production from any
24 intellectual property,

- 1 f. at least one hundred thousand (100,000) square feet of
2 configurable laboratory and support space,
3 g. the direct access to restricted air space through a
4 formalized memorandum of agreement with the Department
5 of Defense,
6 h. at least five thousand (5,000) acres available for
7 outdoor testing and training facilities, and
8 i. the ability to house state-of-the-art surety
9 facilities, including chemical, biological,
10 radiological, explosives, electronics, and unmanned
11 systems laboratories and ranges;

12 13. "SIC Manual" means the 1987 revision to the Standard

13 Industrial Classification Manual, promulgated by the Office of
14 Management and Budget of the United States of America;

15 14. "Start date" means the date on which an establishment may
16 begin accruing benefits for the creation of new direct jobs, which
17 date shall be determined by the Department;

18 15. "Effective date" means the date of approval of a contract
19 under which incentive payments will be made pursuant to the Oklahoma
20 Quality Jobs Program Act, which shall be the date the signed and
21 accepted incentive contract is received by the Department; provided,
22 an approved project may have a start date which is different from
23 the effective date;

24

1 16. "Total qualified labor hours" means the reimbursed payment
2 amount for hours of work performed by the State of Oklahoma
3 workforce of a qualified federal contractor or the State of Oklahoma
4 workforce of a subcontractor of a qualified federal contractor and
5 which are required for the full performance of a qualified federal
6 contract;

7 17. "Qualified labor rate" means the fully reimbursed labor
8 rate paid through a qualified federal contract for qualified labor
9 hours to the qualified federal contractor or subcontractor;

10 18. "Qualified federal contractor" means a business entity:

11 a. maintaining a prime contract with the federal
12 government as defined in paragraph 11 of this
13 subsection,

14 b. providing notice of intent to apply to the Department
15 within one hundred eighty (180) days of July 1, 2010,
16 or one hundred eighty (180) days of the date of the
17 award of a qualified federal contract or award of a
18 new qualified subcontract under an existing qualified
19 federal contract, and

20 c. adding substantively to the contract by performing at
21 least eight percent (8%) of the total labor whether
22 qualified and nonqualified labor as determined by the
23 federal contractor verifier on a direct contract or
24 individual task order or delivery order on an

1 indefinite-delivery/indefinite-quantity or other
2 blanket contract vehicle.

3 Should a prime contractor provide notice to the Department of
4 its intent not to apply for incentive for a qualified federal
5 contract or fails to qualify under the criteria above,
6 subcontractors in order of tier ranking as determined by the federal
7 contract verifier may assume the role of the prime and apply to
8 become a qualified federal contractor provided the entity meets the
9 same criteria above with the exception that notice of intent to
10 apply with the Department must be provided within sixty (60) days of
11 the prime's disqualification or one hundred eighty (180) days of the
12 award of its subcontract, whichever is later; and

13 19. "Proxy establishment" means a public trust which:

- 14 a. is organized and existing under Section 176 of Title
15 60 of the Oklahoma Statutes for the benefit of a
16 geographic area which includes a city or county or
17 some combination thereof, and
- 18 b. benefits a geographic area where new direct jobs which
19 meet the requirements of the Oklahoma Quality Jobs
20 Program Act are created by an establishment, other
21 than the proxy establishment, which is a branch of the
22 Armed Forces of the United States.

23 A proxy establishment may be determined to be an establishment
24 for all purposes of the Oklahoma Quality Jobs Program Act by the

1 Department and incentive payments may be made to such proxy
2 establishment for new direct jobs otherwise qualified pursuant to
3 the Oklahoma Quality Jobs Program Act. The Department may
4 promulgate rules to further specify the circumstances under which a
5 proxy establishment may be considered an establishment for the
6 purposes of making application for incentive payments pursuant to
7 the Oklahoma Quality Jobs Program Act. Provided however, that with
8 respect to any data on qualifying direct new jobs from a branch of
9 the Armed Forces of the United States, such rules shall only require
10 a proxy establishment to provide such data as would otherwise be
11 publicly releasable by the branch of the Armed Forces of the United
12 States.

13 B. The Incentive Approval Committee is hereby created and shall
14 consist of the Director of the Office of Management and Enterprise
15 Services, the Director of the Department and one member of the
16 Oklahoma Tax Commission appointed by the Tax Commission, or a
17 designee from each agency approved by such member. It shall be the
18 duty of the Committee to determine the eligibility of all applicants
19 for the Oklahoma Quality Jobs Program Act, subject to the applicable
20 requirements.

21 C. For an establishment defined as a "basic industry" pursuant
22 to division (4) of subparagraph a of paragraph 1 of subsection A of
23 this section, the Incentive Approval Committee shall consist of the
24 members provided by subsection B of this section and the Executive

1 Director of the Oklahoma Center for the Advancement of Science and
2 Technology, or a designee from the Center appointed by the Executive
3 Director.

4 SECTION 2. This act shall become effective November 1, 2025.

5 Passed the Senate the 11th day of March, 2025.

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 Presiding Officer of the Senate

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9 Passed the House of Representatives the ____ day of _____,
10 2025.

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 Presiding Officer of the House
13 of Representatives

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