

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 HOUSE BILL 2147

By: Pfeiffer

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5  
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68  
8 O.S. 2011, Section 3603, as last amended by Section  
9 1, Chapter 156, O.S.L. 2018 (68 O.S. Supp. 2018,  
10 Section 3603), which relates to the Oklahoma Quality  
11 Jobs Program Act; modifying definition; providing an  
12 effective date; and declaring an emergency.

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

14 SECTION 1. AMENDATORY 68 O.S. 2011, Section 3603, as  
15 last amended by Section 1, Chapter 156, O.S.L. 2018 (68 O.S. Supp.  
16 2018, Section 3603), is amended to read as follows:

17 Section 3603. A. As used in the Oklahoma Quality Jobs Program  
18 Act:

19 1. a. "Basic industry" means:

- 20 (1) those manufacturing activities defined or  
21 classified in the NAICS Manual under Industry  
22 Sector Nos. 31, 32 and 33, Industry Group No.  
23 5111 or Industry No. 11331,  
24

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

5 (a) an establishment engaged therein qualifies  
6 as an exempt wholesale generator as defined  
7 by 15 U.S.C., Section 79z-5a,

8 (b) the exempt wholesale generator facility  
9 consumes from sources located within the  
10 state at least ninety percent (90%) of the  
11 total energy used to produce the electrical  
12 output which qualifies for the specialized  
13 treatment provided by the Energy Policy Act  
14 of 1992, P.L. 102-486, 106 Stat. 2776, as  
15 amended, and federal regulations adopted  
16 pursuant thereto,

17 (c) the exempt wholesale generator facility  
18 sells to purchasers located outside the  
19 state for consumption in activities located  
20 outside the state at least ninety percent  
21 (90%) of the total electrical energy output  
22 which qualifies for the specialized  
23 treatment provided by the Energy Policy Act  
24 of 1992, P.L. 102-486, 106 Stat. 2776, as

1 amended, and federal regulations adopted  
2 pursuant thereto, and

3 (d) the facility is constructed on or after July  
4 1, 1996,

5 (3) those administrative and facilities support  
6 service activities defined or classified in the  
7 NAICS Manual under Industry Group Nos. 5611 and  
8 5612, Industry Nos. 51821, 519130, 52232 and  
9 56142 or U.S. Industry Nos. 524291 and 551114,  
10 those other support activities for air  
11 transportation defined or classified in the NAICS  
12 Manual under Industry Group No. 488190, and those  
13 support, repair, and maintenance service  
14 activities for the wind industry defined or  
15 classified in the NAICS Manual under Industry  
16 Group No. 811310,

17 (4) those professional, scientific and technical  
18 service activities defined or classified in the  
19 NAICS Manual under U.S. Industry Nos. 541710 and  
20 541380,

21 (5) distribution centers for retail or wholesale  
22 businesses defined or classified in the NAICS  
23 Manual under Sector No. 42, if forty percent  
24

1 (40%) or more of the inventory processed through  
2 such warehouse is shipped out-of-state,

3 (6) those adjustment and collection service  
4 activities defined or classified in the NAICS  
5 Manual under U.S. Industry No. 561440, if  
6 seventy-five percent (75%) of the loans to be  
7 serviced were made by out-of-state debtors,

8 (7) (a) those air transportation activities defined  
9 or classified in the NAICS Manual under  
10 Industry Group No. 4811, if the following  
11 facilities are located in this state:

12 (i) the corporate headquarters of an  
13 establishment classified therein, and

14 (ii) a facility or facilities at which  
15 reservations for transportation  
16 provided by such an establishment are  
17 processed, whether such services are  
18 performed by employees of the  
19 establishment, by employees of a  
20 subsidiary of or other entity  
21 affiliated with the establishment or by  
22 employees of an entity with whom the  
23 establishment has contracted for the  
24 performance of such services; provided,

1                   this provision shall not disqualify an  
2                   establishment which uses an out-of-  
3                   state entity or employees for some  
4                   reservations services, or

5                   (b) those air transportation activities defined  
6                   or classified in the NAICS Manual under  
7                   Industry Group No. 4811, if an establishment  
8                   classified therein has or will have within  
9                   one (1) year sales of at least seventy-five  
10                  percent (75%) of its total sales, as  
11                  determined by the Incentive Approval  
12                  Committee pursuant to the provisions of  
13                  subsection B of this section, to out-of-  
14                  state customers or buyers, to in-state  
15                  customers or buyers if the product or  
16                  service is resold by the purchaser to an  
17                  out-of-state customer or buyer for ultimate  
18                  use, or to the federal government,

19                  (8) flight training services activities defined or  
20                  classified in the NAICS Manual under U.S.  
21                  Industry Group No. 611512, which for purposes of  
22                  the Oklahoma Quality Jobs Program Act shall  
23                  include new direct jobs for which gross payroll  
24

1                   existed on or after January 1, 2003, as  
2                   identified in the NAICS Manual,

3                   (9) the following, if an establishment classified  
4                   therein has or will have within one (1) year  
5                   sales of at least seventy-five percent (75%) of  
6                   its total sales, as determined by the Incentive  
7                   Approval Committee pursuant to the provisions of  
8                   subsection B of this section, to out-of-state  
9                   customers or buyers, to in-state customers or  
10                  buyers if the product or service is resold by the  
11                  purchaser to an out-of-state customer or buyer  
12                  for ultimate use, or to the federal government:

13                  (a) those transportation and warehousing  
14                         activities defined or classified in the  
15                         NAICS Manual under Industry Subsector No.  
16                         493, if not otherwise listed in this  
17                         paragraph, Industry Subsector Nos. 482 and  
18                         484 and Industry Group Nos. 4884 through  
19                         4889,

20                  (b) those passenger transportation activities  
21                         defined or classified in the NAICS Manual  
22                         under Industry Nos. 561510 and 561599,  
23  
24

- 1 (c) those freight or cargo transportation  
2 activities defined or classified in the  
3 NAICS Manual under Industry No. 541614,  
4 (d) those insurance activities defined or  
5 classified in the NAICS Manual under  
6 Industry Group No. 5241,  
7 (e) those services to dwellings and other  
8 buildings, as defined or classified in the  
9 NAICS Manual under Industry Group No. 5617,  
10 excluding U.S. Industry Nos. 561730, 56171,  
11 56172, 56174 and 56179,  
12 (f) those equipment rental and leasing  
13 activities defined or classified in the  
14 NAICS Manual under Industry Group No. 5324,  
15 (g) those information technology and other  
16 computer-related service activities defined  
17 or classified in the NAICS Manual under  
18 Industry Group Nos. 5112, 5182, 5191 and  
19 5415,  
20 (h) those business support service activities  
21 defined or classified in the NAICS Manual  
22 under U.S. Industry Nos. 561410 through  
23 561430, excluding 56143, and Industry No.  
24 51911,

- 1 (i) those medical and diagnostic laboratory  
2 activities defined or classified in the  
3 NAICS Manual under Industry Group No. 6215,
- 4 (j) those professional, scientific and technical  
5 service activities defined or classified in  
6 the NAICS Manual under Industry Group Nos.  
7 5412, 5414, 5415, 5416 and 5417, Industry  
8 Nos. 54131, 54133, 54136 and 54137, and U.S.  
9 Industry No. 541990, if not otherwise listed  
10 in this paragraph,
- 11 (k) those communication service activities  
12 defined or classified in the NAICS Manual  
13 under Industry Nos. 51741 and 51791,
- 14 (l) those refuse systems activities defined or  
15 classified in the NAICS Manual under  
16 Industry Group No. 5622, provided that the  
17 establishment is primarily engaged in the  
18 capture and distribution of methane gas  
19 produced within a landfill,
- 20 (m) general wholesale distribution of groceries,  
21 defined or classified in the NAICS Manual  
22 under Industry Group Nos. 4244 and 4245,
- 23 (n) those activities relating to processing of  
24 insurance claims, defined or classified in



1 the NAICS Manual under U.S. Industry Nos.  
2 524210 and 524292; provided, activities  
3 described in U.S. Industry Nos. 524210 and  
4 524292 in the NAICS Manual other than  
5 processing of insurance claims shall not be  
6 included for purposes of this subdivision,

7 (o) those agricultural activities classified in  
8 the NAICS Manual under U.S. Industry Nos.  
9 112120 and 112310,

10 (p) those professional organization activities  
11 classified in the NAICS Manual under U.S.  
12 Industry No. 813920,

13 (q) alternative energy structure construction  
14 classified in the NAICS Manual under U.S.  
15 Industry No. 237130,

16 (r) solar reflective coating application  
17 classified in the NAICS Manual under U.S.  
18 Industry No. 238160,

19 (s) solar heating equipment installation  
20 classified in the NAICS Manual under U.S.  
21 Industry No. 238220,

22 (t) those wired telecommunications carriers  
23 classified in the NAICS Manual under U.S.  
24 Industry No. 517110, and

1 (u) those securities, commodity contracts and  
2 investment activities classified in the  
3 NAICS Manual under Industry Subsector No.  
4 523,

5 (10) those activities related to extraction or  
6 pipeline transportation of petroleum, natural gas  
7 or refined petroleum products, defined or  
8 classified in the NAICS Manual under Industry  
9 Group No. 2111, 213111, 213112 or 486, subject to  
10 the limitations provided in paragraph 3 of this  
11 subsection and paragraph 3 of subsection B of  
12 this section,

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

1 (12) those activities defined or classified in the  
2 NAICS Manual under U.S. Industry No. 711211 (2007  
3 version),

4 (13) those real estate or brokerage activities  
5 classified in the NAICS Manual under U.S.  
6 Industry No. 53120 for which at least seventy-  
7 five percent (75%) of the establishment's  
8 revenues are attributed to out-of-state sales and  
9 at least seventy-five percent (75%) of the real  
10 estate transactions generating those revenues are  
11 attributed to real property located outside the  
12 State of Oklahoma, or

13 (14) those support activities for rail transportation  
14 and those support activities for water  
15 transportation defined or classified in the NAICS  
16 Manual under U.S. Industry Nos. 4882 and 4883.

17 b. An establishment described in subparagraph a of this  
18 paragraph shall not be considered to be engaged in a  
19 basic industry unless it offers, or will offer within  
20 one hundred eighty (180) days of employment, a basic  
21 health benefits plan to the individuals it employs in  
22 new direct jobs in this state which is determined by  
23 the Oklahoma Department of Commerce to consist of the  
24

1 following elements or elements substantially  
2 equivalent thereto:

- 3 (1) not more than fifty percent (50%) of the premium  
4 shall be paid by the employee,
- 5 (2) coverage for basic hospital care,
- 6 (3) coverage for physician care,
- 7 (4) coverage for mental health care,
- 8 (5) coverage for substance abuse treatment,
- 9 (6) coverage for prescription drugs, and
- 10 (7) coverage for prenatal care;

11 2. "Change-in-control event" means the transfer to one or more  
12 unrelated establishments or unrelated persons, of either:

- 13 a. beneficial ownership of more than fifty percent (50%)  
14 in value and more than fifty percent (50%) in voting  
15 power of the outstanding equity securities of the  
16 transferred establishment, or
- 17 b. more than fifty percent (50%) in value of the assets  
18 of an establishment.

19 A transferor shall be treated as related to a transferee if more  
20 than fifty percent (50%) of the voting interests of the transferor  
21 and transferee are owned, directly or indirectly, by the other or  
22 are owned, directly or indirectly, by the same person or persons,  
23 unless such transferred establishment has an outstanding class of  
24 equity securities registered under Sections 12(b) or 15(d) of the

1 Securities Exchange Act of 1934, as amended, in which event the  
2 transferor and transferee will be treated as unrelated; provided, an  
3 establishment applying for the Oklahoma Quality Jobs Program Act as  
4 a result of a change-in-control event is required to apply within  
5 one hundred eighty (180) days of the change-in-control event to  
6 qualify for consideration. An establishment entering the Oklahoma  
7 Quality Jobs Program Act as the result of a change-in-control event  
8 shall be required to maintain a level of new direct jobs as agreed  
9 to in its contract with the Oklahoma Department of Commerce and to  
10 pay new direct jobs an average annualized wage which equals or  
11 exceeds one hundred twenty-five percent (125%) of the average county  
12 wage as that percentage is determined by the Oklahoma Department of  
13 Commerce based upon the most recent U.S. Department of Commerce data  
14 for the county in which the new jobs are located. For purposes of  
15 this paragraph, healthcare premiums paid by the applicant for  
16 individuals in new direct jobs shall not be included in the  
17 annualized wage. Such establishment entering the Oklahoma Quality  
18 Jobs Program Act as the result of a change-in-control event shall be  
19 required to retain the contracted average annualized wage and  
20 maintain the contracted maintenance level of new direct jobs numbers  
21 as certified by the Tax Commission. If the required average  
22 annualized wage or the required new direct jobs numbers do not equal  
23 or exceed such contracted level during any quarter, the quarterly  
24 incentive payments shall not be made and shall not be resumed until

1 such time as such requirements are met. An establishment described  
2 in this paragraph shall be required to repay all incentive payments  
3 received under the Oklahoma Quality Jobs Program Act if the  
4 establishment is determined by the Tax Commission to no longer have  
5 business operations in the state within three (3) years from the  
6 beginning of the calendar quarter for which the first incentive  
7 payment claim is filed;

8 3. "New direct job":

9 a. means full-time-equivalent employment in this state in  
10 an establishment which has qualified to receive an  
11 incentive payment pursuant to the provisions of the  
12 Oklahoma Quality Jobs Program Act which employment did  
13 not exist in this state prior to the date of approval  
14 by the Department of the application of the  
15 establishment pursuant to the provisions of Section  
16 3604 of this title and with respect to an  
17 establishment qualifying for incentive payments  
18 pursuant to division (12) of subparagraph a of  
19 paragraph 1 of this subsection shall not include  
20 compensation paid to an employee or independent  
21 contractor for an athletic contest conducted in the  
22 state if the compensation is paid by an entity that  
23 does not have its principal place of business in the  
24 state or that does not own real or personal property

1 having a market value of at least One Million Dollars  
2 (\$1,000,000.00) located in the state, and the  
3 employees or independent contractors of such entity  
4 are compensated to compete against the employees or  
5 independent contractors of an establishment that  
6 qualifies for incentive payments pursuant to division  
7 (12) of subparagraph a of paragraph 1 of this  
8 subsection and which is organized under Oklahoma law  
9 or that is lawfully registered to do business in the  
10 state and which does have its principal place of  
11 business located in the state and owns real or  
12 personal property having a market value of at least  
13 One Million Dollars (\$1,000,000.00) located in the  
14 state; provided, that if an application of an  
15 establishment is approved by the Oklahoma Department  
16 of Commerce after a change-in-control event and the  
17 Director of the Oklahoma Department of Commerce  
18 determines that the jobs located at such establishment  
19 are likely to leave the state, "new direct job" shall  
20 include employment that existed in this state prior to  
21 the date of application which is retained in this  
22 state by the new establishment following a change in  
23 control event, if such job otherwise qualifies as a  
24 new direct job, and

1           b.   shall include full-time-equivalent employment in this  
2           state of employees who are employed by an employment  
3           agency or similar entity other than the establishment  
4           which has qualified to receive an incentive payment  
5           and who are leased or otherwise provided under  
6           contract to the qualified establishment, if such job  
7           did not exist in this state prior to the date of  
8           approval by the Department of the application of the  
9           establishment or the job otherwise qualifies as a new  
10          direct job following a change-in-control event. A job  
11          shall be deemed to exist in this state prior to  
12          approval of an application if the activities and  
13          functions for which the particular job exists have  
14          been ongoing at any time within six (6) months prior  
15          to such approval. With respect to establishments  
16          defined in division (10) of subparagraph a of  
17          paragraph 1 of this subsection, new direct jobs shall  
18          be limited to those jobs directly comprising the  
19          corporate headquarters of or directly relating to  
20          manufacturing, maintenance, administrative, financial,  
21          engineering, surveying, geological or geophysical  
22          services performed by the establishment. Under no  
23          circumstances shall employment relating to field  
24          services be considered new direct jobs;



1 4. "Estimated direct state benefits" means the tax revenues  
2 projected by the Department to accrue to the state as a result of  
3 new direct jobs;

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

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

14 6. "Estimated net direct state benefits" means the estimated  
15 direct state benefits less the estimated direct state costs;

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

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

- 1 (1) bids were solicited and accepted by the United  
2 States Department of Defense from facilities  
3 located outside this state,  
4 (2) the term is or is renewable for not less than  
5 twenty (20) years, and  
6 (3) the average annual salary, excluding benefits  
7 which are not subject to Oklahoma income taxes,  
8 for new direct jobs created as a direct result of  
9 the awarding of the contract is projected by the  
10 Oklahoma Department of Commerce to equal or  
11 exceed Forty Thousand Dollars (\$40,000.00) within  
12 three (3) years of the date of the first  
13 incentive payment,

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

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

- 20 ~~(1)~~ in an opportunity zone located in a high-  
21 employment county, as such terms are defined in  
22 subsection G of Section 3604 of this title, ~~or~~  
23 ~~(2)~~ ~~in a county in which:~~

- 1                   ~~(a) the per capita personal income, as~~  
2                                   ~~determined by the Department, is eighty-five~~  
3                                   ~~percent (85%) or less of the statewide~~  
4                                   ~~average per capita personal income,~~  
5                   ~~(b) the population has decreased over the~~  
6                                   ~~previous ten (10) years, as determined by~~  
7                                   ~~the Oklahoma Department of Commerce based on~~  
8                                   ~~the most recent U.S. Department of Commerce~~  
9                                   ~~data, or~~  
10                   ~~(c) the unemployment rate exceeds the lesser of~~  
11                                   ~~five percent (5%) or two percentage points~~  
12                                   ~~above the state average unemployment rate as~~  
13                                   ~~certified by the Oklahoma Employment~~  
14                                   ~~Security Commission,~~

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

- 17                   (1) is, as of the date of application, receiving  
18                                   incentive payments pursuant to the Oklahoma  
19                                   Quality Jobs Program Act and has been receiving  
20                                   such payments for at least one (1) year prior to  
21                                   the date of application, and  
22                   (2) expands its operations in this state by creating  
23                                   additional new direct jobs which pay average  
24                                   annualized wages which equal or exceed one

1                   hundred fifty percent (150%) of the average  
2                   annualized wages of new direct jobs on which  
3                   incentive payments were received during the  
4                   preceding calendar year,

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

1 the net benefit rate is modified as required by this  
2 subparagraph, and

- 3 g. the net benefit rate shall not exceed six percent (6%)  
4 in connection with an establishment which employs  
5 United States military veterans in at least ten  
6 percent (10%) of its gross payroll. The net benefit  
7 rate for an establishment which employs United States  
8 military veterans in at least ten percent (10%) of its  
9 payroll shall not be lower than five percent (5%).

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

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

- 18 9. a. "Establishment" means any business or governmental  
19 entity, no matter what legal form, including, but not  
20 limited to, a sole proprietorship; partnership;  
21 limited liability company; corporation or combination  
22 of corporations which have a central parent  
23 corporation which makes corporate management decisions  
24 such as those involving consolidation, acquisition,

1 merger or expansion; federal agency; political  
2 subdivision of the State of Oklahoma; or trust  
3 authority; provided, distinct, identifiable subunits  
4 of such entities may be determined to be an  
5 establishment, for all purposes of the Oklahoma  
6 Quality Jobs Program Act, by the Department subject to  
7 the following conditions:

8 (1) within three (3) years of the first complete  
9 calendar quarter following the start date, the  
10 entity must have a minimum payroll of Two Million  
11 Five Hundred Thousand Dollars (\$2,500,000.00) and  
12 the subunit must also have or will have a minimum  
13 payroll of Two Million Five Hundred Thousand  
14 Dollars (\$2,500,000.00),

15 (2) the subunit is engaged in an activity or service  
16 or produces a product which is demonstratively  
17 independent and separate from the entity's other  
18 activities, services or products and could be  
19 conducted or produced in the absence of any other  
20 activity, service or production of the entity,

21 (3) has an accounting system capable of tracking or  
22 facilitating an audit of the subunit's payroll,  
23 expenses, revenue and production. Limited  
24 interunit overlap of administrative and

1 purchasing functions shall not disqualify a  
2 subunit from consideration as an establishment by  
3 the Department,

4 (4) the entity has not previously had a subunit  
5 determined to be an establishment pursuant to  
6 this section; provided, the restriction set forth  
7 in this division shall not apply to subunits  
8 which qualify pursuant to the provisions of  
9 subparagraph b of paragraph 7 of this subsection,  
10 and

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

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

23 10. "NAICS Manual" means any manual, book or other publication  
24 containing the North American Industry Classification System, United

1 States, 1997, promulgated by the Office of Management and Budget of  
2 the United States of America, or the latest revised edition;

3 11. "Qualified federal contract" means a contract between an  
4 agency or instrumentality of the United States government, including  
5 but not limited to the Department of Defense or any branch of the  
6 United States Armed Forces, but exclusive of any contract performed  
7 for the Federal Emergency Management Agency as a direct result of a  
8 natural disaster declared by the Governor or the President of the  
9 United States with respect to damage to property located in Oklahoma  
10 or loss of life or personal injury to persons in Oklahoma, and a  
11 lawfully recognized business entity, whether or not the business  
12 entity is organized under the laws of the State of Oklahoma or  
13 whether or not the principal place of business of the business  
14 entity is located within the State of Oklahoma, for the performance  
15 of services, including but not limited to testing, research,  
16 development, consulting or other services in a basic industry, if  
17 the contract involves the performance of such services performed on  
18 or after July 1, 2009, by the employees of the business entity  
19 within the State of Oklahoma or if the contract involves the  
20 performance of such services performed on or after July 1, 2009, by  
21 employees of a lawfully recognized business entity that is a  
22 subcontractor of the business entity with which the prime contract  
23 has been formed. A qualified federal contract described in this  
24 paragraph shall not qualify unless both the qualified federal



1 contractor and any subcontractors originally involved in the work or  
2 added subsequently during the period of performance verify to the  
3 qualified federal contractor verifier that it offers, or will offer  
4 within one hundred eighty (180) days of employment of its respective  
5 employees, a basic health benefits plan as described in subparagraph  
6 b of paragraph 1 of this subsection to individuals who perform  
7 qualified labor hours in this state;

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

- 13 a. established multiyear classified and unclassified  
14 indefinite-delivery/indefinite-quantity federal  
15 contract vehicles in excess of Fifty Million Dollars  
16 (\$50,000,000.00),
- 17 b. current capability to sponsor and maintain personnel  
18 security clearances and authorized by the federal  
19 government to handle and perform classified work up to  
20 the Top Secret Sensitive Compartmented Information  
21 levels,
- 22 c. at least one on-site federally certified Sensitive  
23 Compartmented Information Facility,

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- d. on-site secure mass data storage complex with the capability of isolating, segregating and protecting corporate proprietary and classified information,
- e. trusted agent status by maintaining no ownership of, vested interest in, nor royalty production from any intellectual property,
- f. at least one hundred thousand (100,000) square feet of configurable laboratory and support space,
- g. the direct access to restricted air space through a formalized memorandum of agreement with the Department of Defense,
- h. at least five thousand (5,000) acres available for outdoor testing and training facilities, and
- i. the ability to house state-of-the-art surety facilities, including chemical, biological, radiological, explosives, electronics, and unmanned systems laboratories and ranges;

13. "SIC Manual" means the 1987 revision to the Standard Industrial Classification Manual, promulgated by the Office of Management and Budget of the United States of America;

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

1        15. "Effective date" means the date of approval of a contract  
2 under which incentive payments will be made pursuant to the Oklahoma  
3 Quality Jobs Program Act, which shall be the date the signed and  
4 accepted incentive contract is received by the Department; provided,  
5 an approved project may have a start date which is different from  
6 the effective date;

7        16. "Total qualified labor hours" means the reimbursed payment  
8 amount for hours of work performed by the State of Oklahoma  
9 workforce of a qualified federal contractor or the State of Oklahoma  
10 workforce of a subcontractor of a qualified federal contractor and  
11 which are required for the full performance of a qualified federal  
12 contract;

13        17. "Qualified labor rate" means the fully reimbursed labor  
14 rate paid through a qualified federal contract for qualified labor  
15 hours to the qualified federal contractor or subcontractor;

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

17            a. maintaining a prime contract with the federal  
18                government as defined in paragraph 11 of this  
19                subsection,

20            b. providing notice of intent to apply to the Department  
21                within one hundred eighty (180) days of July 1, 2010,  
22                or one hundred eighty (180) days of the date of the  
23                award of a qualified federal contract or award of a  
24

1 new qualified subcontract under an existing qualified  
2 federal contract, and

- 3 c. adding substantively to the contract by performing at  
4 least eight percent (8%) of the total labor whether  
5 qualified and nonqualified labor as determined by the  
6 federal contractor verifier on a direct contract or  
7 individual task order or delivery order on an  
8 indefinite-delivery/indefinite-quantity or other  
9 blanket contract vehicle.

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

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

- 21 a. is organized and existing under Section 176 of Title  
22 60 of the Oklahoma Statutes for the benefit of a  
23 geographic area which includes a city or county or  
24 some combination thereof, and

1           b.    benefits a geographic area where new direct jobs which  
2                    meet the requirements of the Oklahoma Quality Jobs  
3                    Program Act are created by an establishment, other  
4                    than the proxy establishment, which is a branch of the  
5                    Armed Forces of the United States.

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

20           B. The Incentive Approval Committee is hereby created and shall  
21 consist of the Director of the Office of Management and Enterprise  
22 Services, the Director of the Department and one member of the  
23 Oklahoma Tax Commission appointed by the Tax Commission, or a  
24 designee from each agency approved by such member. It shall be the

1 duty of the Committee to determine the eligibility of all applicants  
2 for the Oklahoma Quality Jobs Program Act, subject to the applicable  
3 requirements.

4 C. For an establishment defined as a "basic industry" pursuant  
5 to division (4) of subparagraph a of paragraph 1 of subsection A of  
6 this section, the Incentive Approval Committee shall consist of the  
7 members provided by subsection B of this section and the Executive  
8 Director of the Oklahoma Center for the Advancement of Science and  
9 Technology, or a designee from the Center appointed by the Executive  
10 Director.

11 SECTION 2. This act shall become effective July 1, 2019.

12 SECTION 3. It being immediately necessary for the preservation  
13 of the public peace, health or safety, an emergency is hereby  
14 declared to exist, by reason whereof this act shall take effect and  
15 be in full force from and after its passage and approval.

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