



# State of Oklahoma

# Incentive Evaluation Commission

## Draft Quality Jobs Program Evaluation

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# **Key Findings and Recommendations**



## Incentive Overview

Oklahoma's Quality Jobs Program, created in 1993, offers qualifying companies quarterly cash rebates equal to up to 5 percent of newly created taxable payroll for up to 10 years. Originally targeted toward manufacturing firms, the program has been expanded to include a wide range of industries. In recent years, it has mostly been used by manufacturing and oil and gas companies. To qualify for the rebates, a company must operate in an eligible industry and meet requirements related to the amount of payroll associated with new jobs created, health insurance coverage, and wages.

## Recommendation: Retain the program, with modifications

### Key Findings

- **Rebates generated by program participants have declined in recent years from a peak of \$84.5 million in 2014 to \$47.1 million in 2018.**<sup>1</sup> Rebates generated by oil and gas-related establishments declined by half in 2016 and again in 2017, largely driving the overall trend in rebates. Reported jobs declined along with the number of companies participating in the program.

**Table 1: Rebates Generated, CY 2011 to CY 2018**

Year	Companies Generating Rebate	Reported Jobs	Rebates Generated (Millions)
2011	159	21,035	\$66.1
2012	181	24,543	\$80.0
2013	189	23,966	\$80.6
2014	183	22,235	\$84.5
2015	169	18,014	\$74.0
2016	123	12,712	\$49.1
2017	98	11,149	\$43.5
2018	103	12,036	\$47.1

*Source: Oklahoma Department of Commerce*

- **The median wage of participants exceeded the state average wage from 2011 through 2018.** This is despite low wage requirements. Establishments must match the lesser of the county average or a state threshold wage equal to \$35,376 as of 2021, 15.1 percent lower than the statewide average wage of \$44,025, and 36.1 percent lower than the highest average county wage, in Oklahoma County.
- **From 2011 to 2018, manufacturing (36.8 percent) and oil and gas firms (27.1 percent) combined for more than half of the generated rebates.** These industries received \$192.9 and \$114.1 million in rebates, respectively. The next-highest rebated industry, management of companies, received \$55.5 million over this period.
- **Participants are concentrated in Oklahoma and Tulsa counties.** From 2011 to 2018, these counties account for \$260.0 and \$155.0 million in rebates, respectively, combining for about 80 percent of the total. These counties combined for 54.9 percent of total private employment in the State in 2020.<sup>2</sup>
- **Economic and fiscal impact analysis found the program from 2011 to 2018 to be a net fiscal benefit to the State, generating \$4,025.4 million in additional State tax revenue compared to its total cost of \$524.8 million.** While an argument can be made that some of the projects and the

<sup>1</sup> The analysis of program usage in this evaluation focuses on data provided by the Department of Commerce that includes information on participants' reported jobs, payroll, and wages in the quarters in which a rebate payment was generated. Due to the potential lag time in filing a claim for rebate payment, the analysis of the Department's data, which was provided for 2011 through 2020, was truncated to include data out to 2018, the last full year of claims in the dataset.

<sup>2</sup> US Bureau of Labor Statistics, Quarterly Census of Employment and Wages



associated jobs would have occurred anyway, even if 85 percent of these jobs and wages would have occurred regardless of the program, leaving only 15 percent attributable to the incentive, the program would still generate a small surplus impact to state tax revenues.

- **Industries generating most of the rebates exceeded State growth in annual pay and wages but lagged in employment growth.** Most rebates were generated by industries outperforming overall State growth in average annual pay and total wages from 2011 through 2018. A total of 66.4 percent of rebates generated from 2011 to 2018 were in industries that exceeded State average growth rates for annual pay; 63.6 percent were in industries that exceeded State average growth in total wages. However, most rebates (73.7 percent) were generated in industries lagging State growth in employment.<sup>3</sup>
- **Strong program cost controls are in place.** All participants in the program are evaluated to determine the project is a net benefit to the State in order to qualify. The rebates paid to participants are based on the net benefit provided to the State, so the program is revenue neutral. Rebates are paid only when participants meet or are ramping up to job and wage requirements.

## Recommendations

- **Require establishments to pay the average county wage regardless of the statewide threshold wage.** Currently, establishments must match the lesser of the county average or a state threshold wage equal to \$35,376 as of 2021 – 15.1 percent lower than the statewide average wage of \$44,025, and 36.1 percent lower than the average wage in Oklahoma County.

Despite this low threshold wage, the overall median wage of participants from 2011 through 2018 exceeded the statewide average wage. However, because of the low state threshold wage, there are instances where companies paid significantly less than their average county wage and still met program qualifications. In 2018, for example, 22 companies generated rebates while paying less than the average county wage in place as of their start date.<sup>4</sup> Among those companies, nine paid wages that were 20 percent or more below their average county wage.

Eliminating the statewide threshold wage would ensure the program is encouraging the creation of jobs that at least maintain average wage levels in each county.

- **For new agreements, reset the minimum wage requirement after five years.** Currently, participating firms enter into a 10-year contract outlining the requirements that must be met to receive rebates over that term. These contracts require that the firm pays a minimum average wage over the 10-year period. Once the minimum wage requirement is established, it is not updated at any point over the 10-year contract. As a result, jobs receiving the annual average pay as of 10 years prior may still qualify a firm for benefits in the tenth year of the contract.

The following chart shows the average county wage in Oklahoma County in 2010 relative to the actual average county wage over the next nine years. It shows that a company entering the program agreeing to pay at least the average county wage as of 2010 could continue to qualify for rebate payments in

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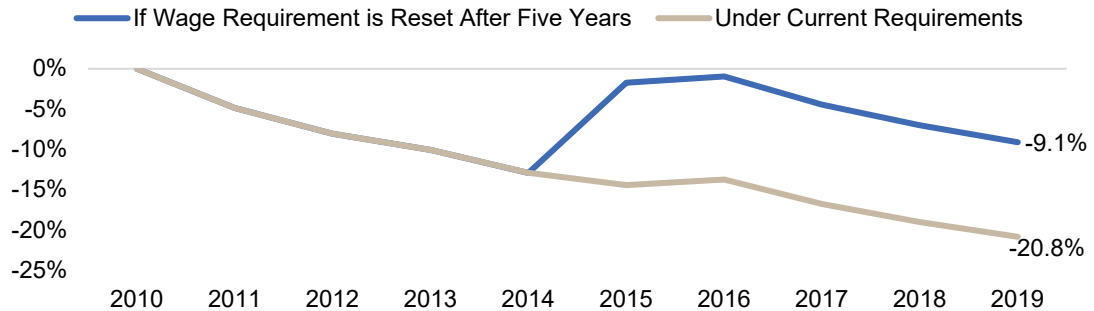
<sup>3</sup> US Bureau of Labor Statistics, Quarterly Census of Employment and Wages

<sup>4</sup> This analysis compares the average county wage as of two years prior to the company's Quality Jobs start date, according to the US Bureau of Economic Analysis (Table CAINC30), to the median annualized wage reported by companies generating a rebate in 2018. The average wage two years prior to the company's start date is used in order to match the Department of Commerce's timeline for determining qualifying wage levels. Due to the lag time in data becoming available, data from two years prior to the company's start date is the latest available. For example, companies applying to start the program between February 1, 2021 and January 31, 2022 must meet wage thresholds based on 2019 data.



2019 while paying 21 percent less than the actual average county wage that year. If the wage requirement was reset after year five so participants were required to pay at least the 2014 county average wage for the remainder of the contract, wages would be considerably higher and only decline to about nine percent less than the actual average wage in 2019.

**Figure 1: Average Wage in Oklahoma County in 2010, Relative to Actual Average County Wage, 2010-2019**



Year	Average County Wage	Year	Average County Wage
2010	\$43,839	2015	\$51,231
2011	\$46,086	2016	\$50,824
2012	\$47,679	2017	\$52,680
2013	\$48,749	2018	\$54,133
2014	\$50,340	2019	\$55,384

Source: US Bureau of Economic Analysis

- **Require participants to file rebate claims within one year of a qualifying quarter.** Currently, companies have two years to submit a claim after their most recent submittal before potential dismissal from the program. This lag time between when a rebate is generated and claimed makes forecasting the costs of the program difficult. Controlling the timing of incentive payments is a key aspect of incentive design to manage budget impacts.<sup>5</sup> Furthermore, if a company waits two years to claim a rebate, it calls into question how important the rebate is in supporting the incented activity, as the relative value of the rebate (based on the time value of money) declines the later – it is claimed and received. Shortening the lag time to a maximum one year would still provide participants sufficient time to handle the administrative burden of filing claims while protecting the State from paying up to eight quarters of claims at once if a participant waits two years to file a claim.
- **Regularly review eligible industries to ensure the list reflects the State’s economic development goals.** Since the program was created, industry eligibility has expanded several times, most often to include oil and gas related firms. Industries added since 2003 accounted for about 40 percent of rebates generated between 2011 and 2018. As time passes, the State should consider whether these and other industries are still the correct targets for the program, based on economic development goals.

<sup>5</sup> Pew Charitable Trusts, “Reducing Budget Risks,” December 2015. Accessed electronically at: [https://www.pewtrusts.org/~media/assets/2015/11/cost-predictability\\_artfinal.pdf](https://www.pewtrusts.org/~media/assets/2015/11/cost-predictability_artfinal.pdf)



# Introduction



**Oklahoma Incentive Evaluation Commission Overview**

The Oklahoma Incentive Evaluation Commission (Commission) was created by HB 2182 of 2015 to produce objective evaluations of the State of Oklahoma’s wide array of economic incentives. The Commission is made up of five members appointed by the Governor, President Pro Tempore of the Senate and Speaker of the House of Representatives, along with representatives of the Department of Commerce, Office of Management and Enterprise Services and Tax Commission.

Under the enabling legislation, each of the State’s economic incentives must be evaluated once every four years according to a formal set of general criteria, including (but not limited to) economic output, fiscal impact, return on incentive and effectiveness of administration, as well as criteria specific to each incentive.

Since the Commission’s inception, it has contracted with PFM Group Consulting LLC (PFM) to serve as the independent evaluator of each incentive scheduled for review in a given year. PFM issues a final report on each incentive with recommendations as to how Oklahoma can most effectively achieve the incentive’s goals, including recommendations on whether the incentive should be retained, reconfigured or repealed; as well as recommendations for any changes to State policy, rules or statutes that would allow the incentive to be more easily or conclusively evaluated in the future.

The Commission is charged with considering the independent evaluator’s facts and findings – as well as all public comments – before voting to retain, repeal or modify each incentive under review. It then submits a final report to the Governor and Legislature.

**Summary of 2017 Evaluation Findings and Recommendations**

Based on the preceding framework, significant findings from the 2017 evaluation of the Quality Jobs Program are summarized in the following table.

**Table 2: Summary of 2017 Evaluation Findings**

Evaluation Category	Significant Finding(s)
Overall Findings	- The program was found to be a net benefit to the State, but rebate payments have mostly gone to establishments in industries that underperformed State averages.
Fiscal and Economic Impact	- The program was found to be a net benefit to the State
Future Fiscal Impact Protections	- The program features cost controls related to quarterly requirements that have helped the State control costs
Administrative Effectiveness	- Program administration was found to be effective. The Department of Commerce thoroughly reviews applicant qualifications, and the Tax Commission verifies quarterly reports.
Achievement of Goals	- The program intends to support establishments creating quality jobs in industries with the “promise of significant development” of the State economy. While the program overall was found to be a net benefit, most payments reviewed for the period of 2012 to 2016 were made to establishments in industries growing slower than the State average.
Retain, Reconfigure or Repeal	- Based on its analysis of available data, the project team recommended in 2017 that the program be retained.
Other Recommendations	- Require companies to file information for payment each quarter - Establish regular review of eligible industries to better target the program - Centralize data collection across the Department of Commerce and the Tax Commission for more robust analysis.



Based on PFM's analysis and consideration of other factors, the Commission voted 4-0 to approve PFM's recommendation to retain the incentive. Two significant statutory changes have been made to the program since it was last reviewed. Five percent of quarterly payments made to participants are now to be deposited in the Oklahoma Quick Action Closing Fund (which aligned with a recommendation made in the evaluation for the Quick Action Closing Fund to create a regular revenue stream for that fund). Also, in response to the COVID-19 pandemic, the payroll threshold requirement was lifted for participants from April 1, 2020 through June 30, 2021.

### **2021 Criteria for Evaluation**

The provisions of HB 2182 require that criteria specific to each incentive be used for the evaluation. A key factor in evaluating the effectiveness of incentive programs is to determine whether they are meeting the stated goals as established in state statute or legislation.

To assist in a determination of program effectiveness, the Incentive Evaluation Commission has adopted the following criteria:

- Change in jobs associated with the cash rebates
- Change in payroll associated with the cash rebates
- Ability of program administrative processes to establish the factual basis for claims related to hours, wages, and benefits
- Change in capital investment associated with the cash rebates
- "But-for" test – change in jobs/payroll/capital associated with the cash rebates versus state growth rates as a whole
- Change in jobs/payroll/capital in the qualifying industries versus state industries as a whole
- State return on investment

### **2021 Evaluation Approach**

To conduct its 2021 review of the Quality Jobs Program, the project team conducted the following activities:

- Submitted a data request to the Oklahoma Department of Commerce and Oklahoma Tax Commission (OTC);
- Reviewed and analyzed provided data;
- Completed subject matter expert/internal stakeholder interviews with representatives from the Department of Commerce and OTC;
- Conducted external stakeholder interviews with industry representatives;
- Benchmarked Oklahoma to other states.



# Incentive Usage and Administration



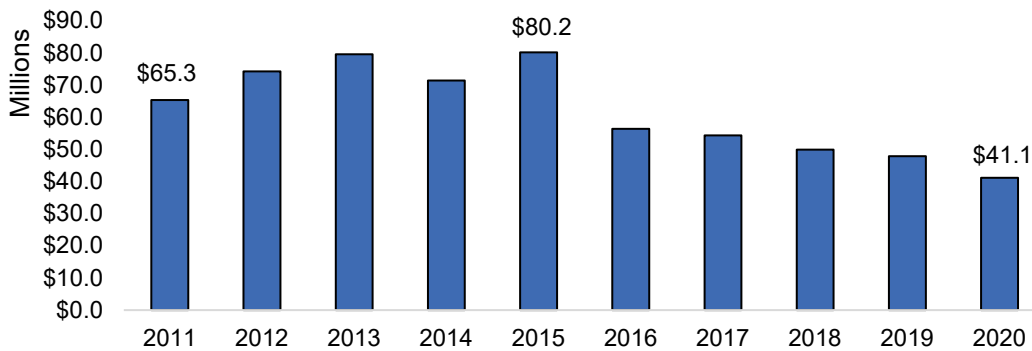
## Incentive Characteristics

Oklahoma’s Quality Jobs Program, created in 1993, offers qualifying companies quarterly cash rebates equal to up to 5 percent of newly created taxable payroll for up to 10 years. Originally targeted toward manufacturing firms, the program has been expanded to include a wide range of industries. In recent years, it has mostly been used by manufacturing and oil and gas companies. To qualify for the rebates, a company must operate in an eligible industry and meet requirements related to the amount of payroll associated with new jobs created, health insurance coverage, and wages.

## Program Usage

From 2011 to 2020, rebate payments declined significantly. Oklahoma Tax Commission (OTC) data show over this period, total rebates paid declined by more than one third, from \$65.3 million to \$41.1 million. Detailed data provided by the Department of Commerce (Department) show this decline was driven by a decrease in the number of companies receiving a rebate payment. From 2011 to 2018, the number of companies receiving a rebate payment by year decreased from 159 to 103.<sup>6</sup>

**Figure 2: Quality Jobs Program Payments, CY 2011 through CY 2020**



Calendar Year	Rebate Payments	Calendar Year	Rebate Payments
2011	\$65,341,650	2016	\$56,402,332
2012	\$74,247,704	2017	\$54,350,219
2013	\$79,551,766	2018	\$49,911,797
2014	\$71,386,824	2019	\$47,887,116
2015	\$80,168,768	2020	\$41,128,046

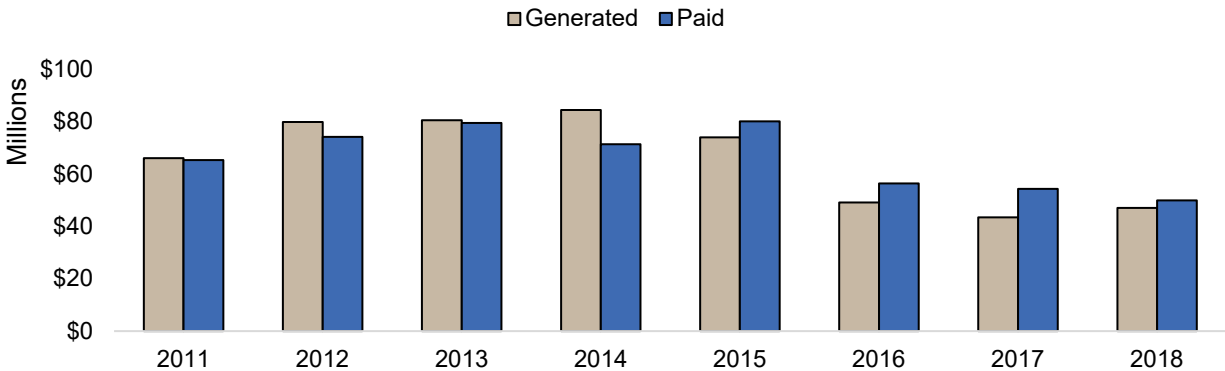
Source: Oklahoma Tax Commission

Once participants file their first quarterly claim for a rebate payment, they have two years to file additional claims or potentially face dismissal from the program. Due to these rules, it is possible for participants to file a rebate claim with the OTC up to two years after that qualifying activity took place. Companies can also file claims for payment for multiple quarters at once. This lag time between the quarter the rebate is earned or generated and when the rebate is paid leads to differences in the annual amounts of rebates paid and generated, as shown in the chart below.

<sup>6</sup> Companies have two years to file claims for rebate payments. For this reason, the analysis of Department of Commerce data provided from 2011 to 2018 is limited to 2018, the last full year of complete filings.



**Figure 3: Rebate Amounts, CY 2011 through CY 2018**

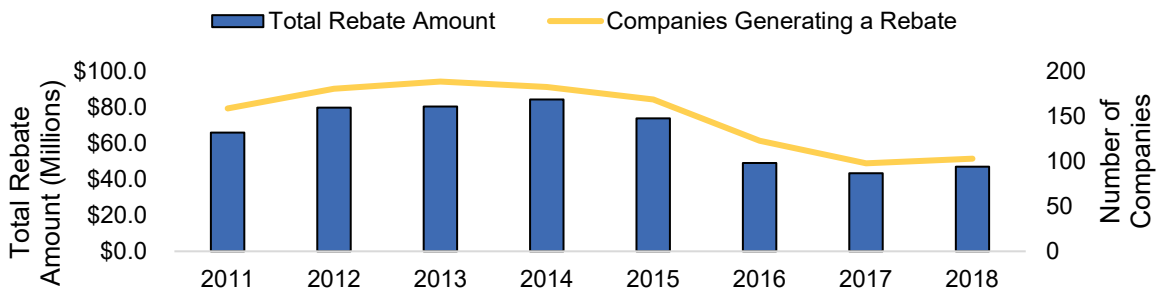


Source: Oklahoma Tax Commission and Department of Commerce

The analysis of program usage in this section will focus on data provided by the Department that includes information on participants' reported jobs, payroll, and wages in the quarters in which a rebate payment was generated. Due to the potential lag time in filing a claim for rebate payment, the analysis of the Department's data, which was provided for 2011 through 2020, was truncated to include data out to 2018, the last full year of claims in the dataset.

From 2011 to 2018, the amount of rebates generated by the program peaked in 2014 at \$84.5 million, before declining each year from 2015 to 2017, declining by nearly half over the three-year period. The largest single-year decline over this period was from 2015 to 2016, when the number of companies generating a rebate fell by 50, including 34 companies that were dismissed or voluntarily withdrew from the program. This decline coincides with a steep decline in the price of oil in 2015 and 2016. Rebates generated by oil and gas-related establishments declined by half in 2016 and again in 2017, largely driving the overall trend in rebates. Total rebates generated and companies receiving payments remained low in 2018.

**Figure 4: Rebates Generated, CY 2011 to CY 2018**



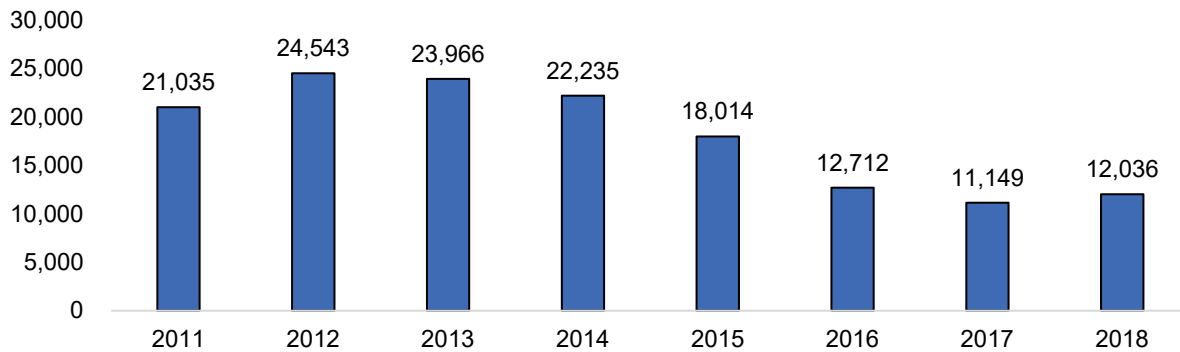
Year	Companies Generating Rebate	Rebates Generated
2011	159	\$66,081,925
2012	181	\$79,932,193
2013	189	\$80,564,951
2014	183	\$84,521,671
2015	169	\$74,032,895
2016	123	\$49,136,644
2017	98	\$43,448,531
2018	103	\$47,066,990

Source: Oklahoma Department of Commerce



The number of jobs reported by participating companies followed a similar trajectory, reaching a peak in 2012 and declining until 2018.

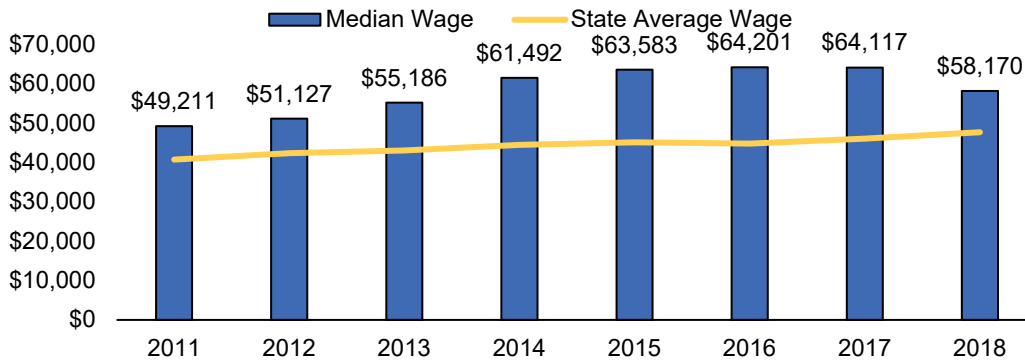
**Figure 5: Reported Jobs, 2011 to 2018**



Source: Oklahoma Department of Commerce

While the number of reported jobs decreased, the median reported wage increased in most years. The median wage of jobs qualifying for rebate payments stayed above the statewide average from 2011 through 2018. In 2018, the median wage was 22.0 percent higher than the statewide average.

**Figure 6: Median Wage of Qualifying Jobs vs Statewide Average, 2011 through 2018**



Source: Oklahoma Department of Commerce and US Bureau of Economic Analysis

Over this period, manufacturing establishments generated the most rebates, with oil and gas-related establishments generating the second-highest amount despite its steep decline. From 2011 to 2018, these industries combined for 58.5 percent of total rebates generated.

**Table 3: Total Rebates Generated by Industry, 2011 through 2018**

Industry	Rebates	Share of Total
Manufacturing	\$192,862,122	36.8%
Oil and Gas	\$114,072,291	21.7%
Management of Companies	\$55,478,317	10.6%
Administrative and Support Services	\$51,435,496	9.8%
Arts, Entertainment, and Recreation	\$40,801,751	7.8%
Professional Services	\$36,754,091	7.0%
Wholesale Trade	\$14,508,770	2.8%
Finance and Insurance	\$6,547,456	1.2%
All Others	\$12,325,506	2.3%
<b>Total</b>	<b>\$524,785,799</b>	



Source: Oklahoma Department of Commerce

Geographically, program use has been concentrated in Oklahoma and Tulsa counties, with Oklahoma County accounting for nearly half of all rebates generated and Tulsa about 30.0 percent, for a combined share of 79.0 percent. The county receiving the next-highest rebate amounts was Washington, with 6.2 percent of the total.

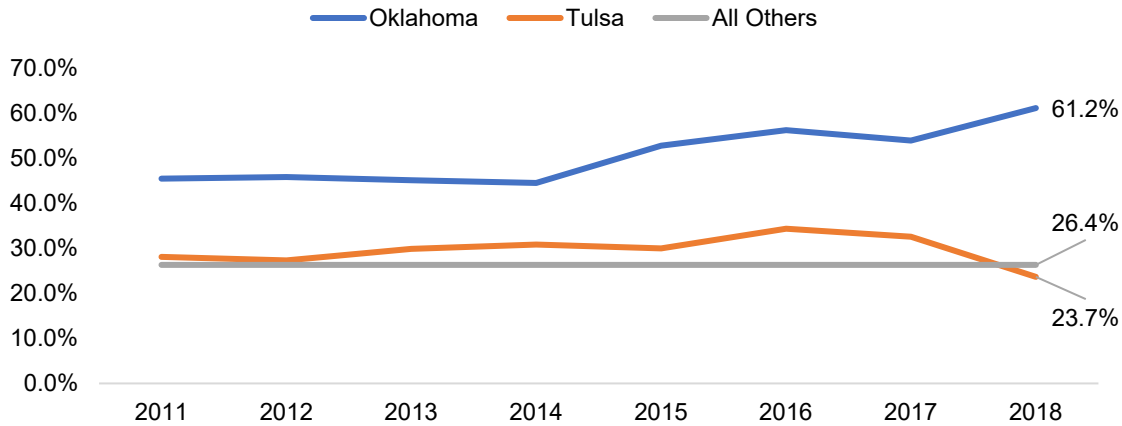
**Table 4: Total Rebates Generated by County, 2011 through 2018**

County	Rebates	Share of Total
Oklahoma	\$259,818,735	49.5%
Tulsa	\$154,961,995	29.5%
Washington	\$32,562,882	6.2%
Rogers	\$13,393,914	2.6%
Stephens	\$11,859,319	2.3%
Cleveland	\$10,642,854	2.0%
Bryan	\$6,177,653	1.2%
Wagoner	\$5,820,419	1.1%
Mayes	\$4,692,759	0.9%
Kay	\$4,282,685	0.8%
All Others	\$20,572,583	3.9%
<b>Total</b>	<b>\$524,785,799</b>	

Source: Oklahoma Department of Commerce

From 2011 to 2018, the Oklahoma and Tulsa County concentration of rebates grew from 73.6 percent to 84.5 percent. This growth was driven by Oklahoma County's share of rebates, which increased from 45.5 percent in 2011 to 61.2 percent in 2018.

**Figure 7: County Share of Total Rebates, 2011 to 2018**



Source: Oklahoma Department of Commerce

From 2011 to 2018, a total of 148 companies withdrew or were dismissed from the program. The most common reason was a failure to meet program thresholds related to total payroll, accounting for 65.5 percent of total withdrawal or dismissals. Other reasons for ending participation include establishments closing, being sold, or failing to file claims in a timely manner.



**Table 5: Total Withdrawals and Dismissals, 2011 to 2018**

Reason for Withdrawal or Dismissal	Companies	Share of Total
Threshold	97	65.5%
Closed	9	6.1%
Failure to File Claim	7	4.7%
Sold	5	3.4%
Not Identified/Other	30	20.3%
<b>Total</b>	<b>148</b>	

Source: Oklahoma Department of Commerce

## Incentive Administration

The Quality Jobs Program is jointly administered by the Department the Oklahoma Tax Commission (OTC). Eligibility guidelines and administrative responsibilities are established in State statutes and administrative rules.<sup>7</sup> The Department is most heavily involved in the process in the early stages of a company exploring and applying for the incentive. The OTC’s role largely begins once a company has been approved to receive the incentive and make claims for quarterly rebate payments.

### Eligibility

An establishment starts the qualification process by submitting an application to the Department. The application must show that the establishment meets program requirements:

- Must operate in an eligible industry as defined in statute;<sup>8</sup>
- Must provide a plan to reach \$2.5 million in new payroll within the next three years;<sup>9</sup>
- More than 80 percent of new employees must work an average of at least 30 hours per week;
- The average wage of newly created jobs must be greater than or equal to the lesser of the average county wage, or the state threshold wage calculated by the Department of Commerce;<sup>10</sup>
- Must provide health care benefits to new employees which requires employees to pay no more than 50 percent of premiums.<sup>11</sup>

### Benefit Amounts

Once the initial application is approved, the Department prepares a project profile. This profile summarizes information about the establishment and its plans, including the project start date, projected employment over the next five years, projected average salary of new employees hired in new direct jobs in the first and third year of program participation, and the health benefits plan to be offered to new employees. This information is analyzed by the Department and used to calculate two key factors in Quality Jobs Program benefits: the **net benefit rate** and the **maximum benefit amount**. These figures determine the quarterly payments the project may receive and the maximum sum of these payments over the contract term.

The **net benefit rate** is a percentage representing the amount of benefit the State expects to receive, net of projected costs. It is calculated as the projected tax revenue to be received because of the new jobs less the projected costs to the State associated with those jobs, including the cost of education, public safety, and transportation. This rate is capped at 5 percent, with some exceptions:

<sup>7</sup> Administrative rules for the Department of Commerce are contained in Title 150, Chapter 65. Tax Commission administrative rules are contained in Title 710, Chapter 85

<sup>8</sup> See Appendix C for full list of eligible industries

<sup>9</sup> This threshold is \$1.5 million for certain food processing, research and development projects or firms that locate on certain former military bases. Those establishments must receive at least 75 percent of sales from out-of-state customers to qualify. Payroll threshold is zero for businesses locating within 10 acres of a Superfund site or a location on the National Priorities List, or being remediated by the Oklahoma Department of Environmental Quality.

<sup>10</sup> This requirement must be met in all quarters of participation, regardless of total payroll. State threshold wage is currently \$35,376.

<sup>11</sup> Establishments must provide this coverage to new employees within 180 days of employment



- Firms with certain Department of Defense contracts may receive up to 6 percent;
- Firms with veterans accounting for at least 10 percent of gross payroll may receive between 5 and 6 percent;
- Firms already receiving Quality Jobs payments for one year and expanding operations with new jobs paying at least 150 percent of the average wage of incentivized jobs at the firm the previous year;
- A net benefit rate of 5 percent is guaranteed for firms locating in:
  - An opportunity zone within a high-employment county;
  - A county where the per capita personal income is 85 percent or less of the State average;
  - A county where the population has decreased over the previous 10 years;
  - A county where the unemployment rate exceeds the lesser of 5 percent or two percentage points above the State average.

Quarterly benefit payments are calculated as the net benefit rate multiplied by the quarterly payroll of newly created jobs. The maximum benefit amount is the net benefit to the State as a dollar amount rather than a percentage. The sum of quarterly payments made to the project may not exceed this dollar amount. In this way, the program is designed to be revenue-neutral for the State.

If the Department recommends a contract offer based on its review, their Office of the General Counsel prepares a contract to be reviewed by the Incentive Approval Committee, consisting of the Director of the Office of Management and Enterprise Services, the Director of the Department, and one member of the OTC.<sup>12</sup> The Incentive Approval Committee votes to approve or deny applicants and also has the power to modify contract terms. The final approved contract details the establishment's net benefit rate, maximum benefit amount, project start date, initial employment level, employment projections, and average annual wage levels required to qualify for quarterly payments.

### *Payments*

The OTC is responsible for issuing payments during the term of the contract. Establishments are required to file a quarterly claim for payment with the OTC as soon as practicable following the first complete calendar quarter after the contract start date. Establishments must continue filing quarterly claims to receive rebate payments.<sup>13</sup> Quarterly claims report the number of new employees hired and the new payroll associated with these jobs. The OTC verifies that each report meets the requirements set forth in the establishment's contract. Payments are only issued if an establishment's quarterly filing meets contract criteria. Establishments meeting program criteria are able to receive quarterly payments for up to 10 years.

### *Eligibility for Other Incentives*

By statute, companies participating in the Quality Jobs Program are prohibited from receiving certain credits or exemptions related to the same activity. Companies are ineligible to claim Quality Jobs rebates in conjunction with benefits from the following programs:

- Business Expansion Incentive Program
- Income Tax Credit for net increase in Computer and R&D Jobs
- Insurance Premium Tax Credits
- Investment in Clean Burning Fuel Motor Vehicle
- Investment in Qualified Venture Capital Companies
- Investment/New Jobs Tax Credit

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<sup>12</sup> The Executive Director of the Oklahoma Center for the Advancement of Science and Technology is added to the Incentive Approval Committee for research and development or laboratory establishments

<sup>13</sup> If a company that has submitted at least one claim fails to submit a subsequent claim within two years of its last, it may be dismissed from the program



- Oklahoma Quality Investment Act
- Purchase of Equipment for Computer/Data Processing
- Recycle, Reuse, Source Reduction Tax Credits
- Sale of Property to Qualified Manufacturer
- Sales of Electronics to Qualified Aircraft Maintenance Facilities
- Tax Credit for Commercial Space Operations
- Tax Credit for Employer Provided Health Plans
- Tax Credit for Recycling Facility

An important exception to this rule is made for establishments making capital investment of \$40 million or more. These establishments are eligible to received Quality Jobs benefits in addition to Investment/New Jobs tax credits.

### *Changes over Time*

Since the program began in 1993, the Legislature has expanded the list of industries eligible for the program. Some of these changes have had a significant impact on the use of the program. For example, eligibility has been expanded several times for companies operating in oil and gas industries. In 2003, companies operating in this industry were first made eligible for the program, excluding oil and gas field jobs. In 2012, companies performing drilling for oil and gas were granted eligibility and in 2013, support activities for oil and gas extraction were added to program eligibility. From 2011 to 2018, 43 establishments in oil and gas extraction or support industries generated rebates totaling \$114.1 million – more than one-fifth of total rebates generated over that period. Another major change came in 2006 when companies in the professional, scientific and technical services sector were granted eligibility. From 2011 to 2018, 36 companies in this area generated rebates of \$36.8 million, about 7.0 percent of total rebates over that period. Finally, in 2008, professional sports teams were granted eligibility to receive rebates for an extended period of 15 years. Companies in this industry generated \$40.8 million in rebates from 2011 to 2018, 7.8 percent of total rebates. These industries combined for about 40 percent of rebates generated.

The most recent program change came in 2020 in response to the COVID-19 pandemic. The Legislature lifted the payroll threshold requirement to receive rebate payments from April 1, 2020 to June 30, 2021.



# **Economic and Fiscal Impact**



## Economic and Fiscal Impact

Economists use a number of statistics to describe regional economic activity. Four common measures are **Output**, which describes total economic activity and is generally equivalent to a firm's gross sales; **Value Added**, which equals gross output of an industry or a sector less its intermediate inputs; **Labor Income**, which corresponds to wages and benefits; and **Employment**, which refers to jobs that have been created in the local economy.

In an input-output analysis of new economic activity, it is useful to distinguish three types of effects: **direct, indirect, and induced**. The IMPLAN software model used for these analyses utilizes an input-output analysis approach.

**Direct effects** are production changes associated with the immediate effects or final demand changes. The payment made by an out-of-town visitor to a hotel operator or the taxi fare paid for transportation while in town are examples of direct effects.

**Indirect effects** are production changes in backward-linked industries caused by the changing input needs of directly affected industries – typically, additional purchases to produce additional output. Satisfying the demand for an overnight stay will require the hotel operator to purchase additional cleaning supplies and services. The taxi driver will have to replace the gasoline consumed during the trip from the airport. These downstream purchases affect the economic output of other local merchants.

**Induced effects** are the changes in regional household spending patterns caused by changes in household income generated from the direct and indirect effects. Both the hotel operator and taxi driver experience increased income from the visitor's stay, as do the cleaning supplies outlet and the gas station proprietor. Induced effects capture the way in which increased income is spent in the local economy.

A multiplier reflects the interaction between different sectors of the economy. An output multiplier of 1.4, for example, means that for every \$1,000 injected into the economy, all other sectors produce an additional \$400 in output. The larger the multiplier, the greater the impact will be in the regional economy.

**Figure : The Flow of Economic Impacts**



The number of qualified quality jobs averaged approximately 12,000 jobs from 2016-2018. Prior to this period, the average annual was almost 22,000 jobs. As participation has declined, average annual economic impacts have declined as well, from \$20.6 billion per year (2011-2015) to \$10.3 billion per year (2016-2018). The program's detailed qualified jobs and wages profile by two-digit industry NAICS code is found in Appendix D.

Much of the decline in recent years is attributable to employment reductions in the oil and gas industry since 2015. Despite these declines, the economic impacts of the program are quite large, averaging \$10.3 billion per year in economic impacts from 2016-2018. With direct employment averaging 12,000 jobs, indirect and induced employment adds an additional 13,500 jobs, or 1.13 jobs in addition to each qualified job. The average total employment is 39,000 jobs in each year during the recent 2016-2018 period. Wages paid exceed \$2.3 billion per year on average during this period.



Table 8 illustrates the economic and fiscal impacts of the jobs and wages created in comparison with the tax revenues and program payments made, on an annual basis. State tax data is generated by IMPLAN through its detailed tax impacts module. The tax generation data, along with employment and wages, are industry specific as detailed in Appendix D and calibrated to the State of Oklahoma.

The cumulative rebates paid since 2011 reach \$524.8 million. Offsetting these payments are additional taxes generated to the state by the program employment and associated economic activity. The offsetting state taxes revenues reached \$4.0 billion over the period 2011-2018. The new state taxes generated by the program fully offset the foregone revenue spent through the program rebates. Further, the program has generated a net surplus of \$3.5 billion in state tax revenues over and above rebate costs, during the 2011-2018 period.

In examining whether the program revenues offset the costs, we look at the degree to which incentives cause the job formations. The question of whether jobs might have occurred without the incentive helps reveal the degree of incentive success and is known as the “but for” test. It seeks to determine if “but for” the incentive job formation would still occur. This question may be answered through survey data or additional questions asked in the credit qualification application. Without these data, the determination of causality “but for” the incentive is not fully known. In this regard, a range of possible alternatives can be considered to bracket what may be a reasonable view as to the degree of causality and help highlight and better understand the economic impacts of the program. In this instance because the program generates significant surpluses a near break-even analysis might be used as an example of which highlights the benefit of the revenue surplus. Thus, in this example, if fully 85 percent of these jobs and wages would have occurred regardless of the program, leaving only 15 percent attributable to the “but for” argument, the program would still generate a small surplus impact to state tax revenues. This test indicates the ROI of the entire program is positive even if only a small share of the jobs are created as a direct program result. With a break even point near 15 percent, it should be noted the analysis could be negative if a smaller share is found to be causal.

Cumulative economic impacts from 2011-2018 have created \$134.0 billion in total economic activity, with \$28.8 billion paid in labor income including direct, indirect and induced wages. The Quality Jobs program has generated very positive and substantial economic impacts while fully offsetting the foregone revenue costs.



**Table 6: Economic and Fiscal Impacts**

		<b>Employment</b>	<b>Labor Income</b>	<b>Value Added</b>	<b>Output</b>	<b>State Tax</b>	<b>Program Payments</b>
2011	Direct	21,036	\$1,707,894,992	\$2,909,094,407	\$9,038,747,898	\$340,091,434	
	Indirect	25,933	\$1,139,290,785	\$1,915,798,903	\$4,230,981,570	\$81,392,129	
	Induced	13,523	\$601,767,375	\$1,093,269,275	\$2,043,995,119	\$61,665,641	
	<b>Total</b>	<b>60,492</b>	<b>\$3,448,953,152</b>	<b>\$5,918,162,585</b>	<b>\$15,313,724,588</b>	<b>\$483,149,205</b>	<b>\$66,081,925</b>
2012	Direct	24,544	\$2,023,528,647	\$3,597,937,503	\$11,602,947,253	\$431,808,215	
	Indirect	33,726	\$1,463,166,659	\$2,475,895,366	\$5,492,158,945	\$104,961,300	
	Induced	16,544	\$736,204,156	\$1,337,513,023	\$2,500,637,089	\$75,442,341	
	<b>Total</b>	<b>74,815</b>	<b>\$4,222,899,462</b>	<b>\$7,411,345,892</b>	<b>\$19,595,743,287</b>	<b>\$612,211,856</b>	<b>\$79,932,193</b>
2013	Direct	23,967	\$2,151,655,243	\$4,086,946,283	\$13,131,784,329	\$493,686,667	
	Indirect	37,062	\$1,654,490,104	\$2,785,638,479	\$6,150,831,915	\$119,274,249	
	Induced	18,026	\$802,143,531	\$1,457,261,705	\$2,724,525,805	\$82,194,529	
	<b>Total</b>	<b>79,055</b>	<b>\$4,608,288,878</b>	<b>\$8,329,846,468</b>	<b>\$22,007,142,049</b>	<b>\$695,155,444</b>	<b>\$80,564,951</b>
2014	Direct	22,236	\$2,238,361,864	\$4,363,664,350	\$14,250,095,826	\$478,364,135	
	Indirect	39,360	\$1,804,878,578	\$3,027,238,590	\$6,657,415,588	\$130,682,887	
	Induced	19,114	\$850,530,184	\$1,545,103,953	\$2,888,763,331	\$87,146,236	
	<b>Total</b>	<b>80,710</b>	<b>\$4,893,770,626</b>	<b>\$8,936,006,893</b>	<b>\$23,796,274,745</b>	<b>\$696,193,258</b>	<b>\$84,521,671</b>
2015	Direct	18,015	\$2,137,946,044	\$4,353,766,127	\$13,467,090,033	\$436,613,285	
	Indirect	34,404	\$1,709,886,641	\$2,813,719,578	\$6,088,063,070	\$124,513,801	
	Induced	18,151	\$807,644,414	\$1,467,136,108	\$2,742,998,472	\$82,745,939	
	<b>Total</b>	<b>70,570</b>	<b>\$4,655,477,099</b>	<b>\$8,634,621,813</b>	<b>\$22,298,151,575</b>	<b>\$643,873,025</b>	<b>\$74,032,895</b>
2016	Direct	12,713	\$1,296,101,659	\$2,351,464,459	\$7,164,707,665	\$239,780,317	
	Indirect	19,335	\$908,767,694	\$1,509,759,970	\$3,295,806,280	\$65,913,399	
	Induced	10,443	\$464,702,783	\$844,249,093	\$1,578,423,281	\$47,619,418	
	<b>Total</b>	<b>42,491</b>	<b>\$2,669,572,136</b>	<b>\$4,705,473,522</b>	<b>\$12,038,937,226</b>	<b>\$353,313,134</b>	<b>\$49,136,644</b>
2017	Direct	11,151	\$1,052,505,911	\$1,636,703,894	\$5,380,483,551	\$175,129,197	
	Indirect	16,732	\$681,310,604	\$1,173,583,116	\$2,638,540,981	\$49,145,701	
	Induced	8,256	\$367,406,530	\$667,570,340	\$1,248,093,528	\$37,657,867	
	<b>Total</b>	<b>36,138</b>	<b>\$2,101,223,044</b>	<b>\$3,477,857,349</b>	<b>\$9,267,118,060</b>	<b>\$261,932,765</b>	<b>\$43,448,531</b>
2018	Direct	12,036	\$1,139,374,628	\$1,723,175,429	\$5,589,643,623	\$188,395,534	
	Indirect	17,545	\$707,536,112	\$1,221,435,211	\$2,750,863,074	\$51,020,749	
	Induced	8,803	\$391,758,049	\$711,838,652	\$1,330,855,742	\$40,156,084	
	<b>Total</b>	<b>38,383</b>	<b>\$2,238,668,790</b>	<b>\$3,656,449,292</b>	<b>\$9,671,362,439</b>	<b>\$279,572,368</b>	<b>\$47,066,990</b>



# Incentive Benchmarking



## Benchmarking

A detailed description of comparable state programs can be found in **Appendix B**.

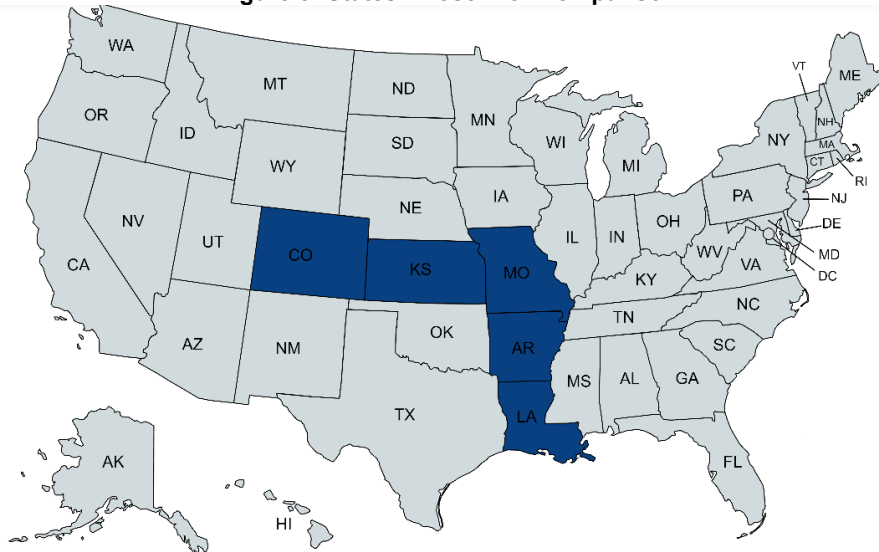
For evaluation purposes, benchmarking provides information related to how peer states use and evaluate similar incentives. At the outset, it should be understood that no states are ‘perfect peers’ – there will be multiple differences in economic, demographic and political factors that will have to be considered in any analysis; likewise, it is exceedingly rare that any two state incentive programs will be exactly the same.<sup>14</sup> These benchmarking realities must be taken into consideration when making comparisons – and, for the sake of brevity, the report will not continually re-make this point throughout the discussion.

States generally vary in their approaches to incentivizing job creation. The most common approach is to offer tax credits in return for jobs created; however, Oklahoma offers cash rebates instead of tax credits. Among state programs, incentives typically vary by duration and in points of emphasis, such as capital investment and employee benefits.

The process of creating a comparison group for incentives typically begins with bordering states. This is generally the starting point, because proximity often leads states to compete for the same regional businesses or business/industry investments. Second, neighboring states often (but not always) have similar economic, demographic, or political structures that lend themselves to comparison.

While the majority of states offer job creation programs, for the purposes of this report, a comparison group was chosen that is comprised primarily of states that border Oklahoma. Four neighboring states have similar job creation incentive programs: Colorado, Kansas, Missouri, and Arkansas. In addition to those neighboring states, Louisiana was included based on its proximity to Oklahoma and for the similarity in its program: Louisiana’s program is also named “Quality Jobs.”

**Figure 8: States Chosen for Comparison**



The comparison group can be distinguished by three major characteristics: the qualification and eligibility requirements, benefit type, and benefit period.

<sup>14</sup> The primary instances of exactly alike state incentive programs occur when states choose to ‘piggyback’ onto federal programs.



### *Job Creation/Payroll Requirements*

Like Oklahoma, two states in the comparison group require a minimum amount of new payroll to receive benefits. Arkansas requires new payroll between \$1.25 million and \$2.00 million depending on project location, and Louisiana requires a minimum of \$675,000 for businesses with 50 or more employees. While Oklahoma measures job creation by the amount of payroll added, two of five states in the comparison group require a certain number of new jobs. Colorado requires that 20 new jobs are created in order to receive the benefit, while Kansas requires 10 new jobs be created by businesses in a metropolitan area and 5 new jobs be created by businesses in a non-metropolitan area to receive the benefit.

### *Wage Requirements*

Four of five comparison states have a wage requirement based on county wages. Colorado requires wages greater than or equal to the average county wage, while Missouri requires wages be at least 90 percent of the average county wage. In Kansas, wages must be at least equal to the median county wage, and in Arkansas, wages must be at least the greater of the lowest county average wage, or \$12.50 per hour. Louisiana is the only state in the group that bases its requirement only on a flat dollar amount (at least \$18 per hour).

As described earlier, Oklahoma requires wages equal to the average county wage, up to a state threshold wage calculated by the Department of Commerce, which is currently \$35,376. Of the three states in the comparison group that require some amount of average county wage levels to be met, only Missouri uses a similar kind of threshold, which it bases on the statewide average wage. If Oklahoma did the same, its threshold wage would be \$44,025, about 25 percent higher than the current threshold. Both Colorado and Kansas require that average county wage levels are met regardless of any statewide threshold wage.

### *Health Care Requirements*

Two of five comparison states do not have a health insurance requirement. Oklahoma, Missouri and Kansas require employers to offer health insurance to all new full-time employees and pay at least 50 percent of the premium. Louisiana requires employers to offer health insurance to all new full-time employees and requires that at least 50 percent of them accept the coverage, but it does not have requirements related to the amount of premium to be paid by employees.

### *Capital Investment Requirement*

Missouri is the only state in the comparison group to include a capital investment requirement. Businesses located in a rural area or a designated enterprise area that create a minimum of 2 new jobs at are required to make a new private capital investment of at least \$100,000 in order to receive program benefits.

### *Benefit Types*

Arkansas and Louisiana offer cash rebates similar to the Quality Jobs program. Arkansas offers a rebate of 3.9 to 5 percent of payroll, depending on the location. Louisiana's rebate is equal to four or six percent of payroll for new jobs, depending on wage levels. Louisiana also includes a full sales and use tax rebate or 1.5 percent project facility expense rebate of total capital investment.<sup>15</sup> Colorado, and Missouri both offer tax credits as part of their incentive programs. Colorado provides an income tax credit equal to 50 percent of the amount of FICA paid on new jobs. Missouri offers different benefit types depending on the level of economic activity generated. For example, a business creating at least 10 new jobs at 90 percent of the average county wage may retain 100 percent of the State payroll withholding tax, while businesses creating at least 100 new jobs at 120 percent

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<sup>15</sup> Sales and use tax rebate requires local approval.



of the average county wage may be eligible for a tax credits equal to 6 percent of new payroll. In contrast, Kansas offers retention of 95 percent of state payroll withholding tax.

### *Benefit Term*

The benefit period for a job creation incentive defines how long a business is eligible to receive benefits for meeting the requirements of the program. Among the comparison group, only Arkansas offers a benefit period matching Oklahoma's 10 years. Other states offer between five- and eight-year benefit periods.

### **Evaluations of Comparable Programs**

In 2017, Arkansas evaluated several of its tax incentive programs including the Create Rebate, a program structured similarly to Oklahoma's. Its program offers cash rebates up to five percent of new payroll for qualified companies creating at least \$2 million in new payroll. Its evaluation, using IMPLAN analysis, studied 24 projects receiving Create Rebate benefits and found the program to be cost-effective.<sup>16</sup>

In 2020, Louisiana evaluated its Quality Jobs program which provides payroll and sales and use tax rebates for creating between 5 and 15 new jobs meeting minimum wage requirements. The evaluation found the program returned between one to ten cents in additional state tax revenue per dollar the state spent on the program. It also found that if the state spent the program's cost on highway construction instead, it would have increased household income by \$138.5 million compared to the between \$23.5 to \$330.4 million added by the program.<sup>17</sup>

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<sup>16</sup> Arkansas Legislative Audit, "Cost-Benefit Analysis of Selected Economic Incentive Projects," October 16, 2017. Accessed electronically at: <https://www.arklegaudit.gov/pdf.aspx?id=SPSA00516>

<sup>17</sup> Louisiana Legislative Auditor, "Louisiana Quality Jobs Program Tax Incentive Evaluation," March 12, 2020. Accessed electronically at: [https://app.la.state.la.us/PublicReports.nsf/0/8EB357BB7A433121862585290075E1CE/\\$FILE/Quality%20Jobs.pdf](https://app.la.state.la.us/PublicReports.nsf/0/8EB357BB7A433121862585290075E1CE/$FILE/Quality%20Jobs.pdf)



# Appendices



## Appendix A: Incentive Statute

### 68 O.S. § 3602 – Intent of Legislature

It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to support establishments of basic industries that hold the promise of significant development of the economy of the State of Oklahoma;
2. The amount of incentives provided pursuant to this act in connection with a particular establishment:
  - a. be directly related to the jobs created as a result of the establishment locating in the State of Oklahoma, and
  - b. not exceed the estimated net direct state benefits that will accrue to the state as a result of the establishment locating in the State of Oklahoma;
3. The Oklahoma Department of Commerce and the Oklahoma Tax Commission implement the provisions of this act and exercise all powers as authorized in this act. The exercise of powers conferred by this act shall be deemed and held to be the performance of essential public purposes; and
4. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company, corporation or association nor to authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association.

*Laws 1993, SB 459, c. 275, § 2, emerg. eff. July 1, 1993.*

### 68 O.S. § 3602 – Definitions – Incentive Approval Committee

A. As used in the Oklahoma Quality Jobs Program Act:

1. a. "Basic industry" means:

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

(2) those electric power generation, transmission and distribution activities defined or classified in the NAICS Manual under U.S. Industry Nos. 221111 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 seventy-five percent (75%) of the loans to be serviced were made by out-of-state debtors,
- (7) (a) those air transportation activities defined or classified in the NAICS Manual under Industry Group No. 4811, if the following facilities are located in this state:
- (i) the corporate headquarters of an establishment classified therein, and
  - (ii) a facility or facilities at which reservations for transportation provided by such an establishment are processed, whether such services are performed by employees of the establishment, by employees of a subsidiary of or other entity affiliated with the establishment or by employees of an entity with whom the establishment has contracted for the performance of such services; provided, this provision shall not disqualify an establishment which uses an out-of-state entity or employees for some 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 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:
- (a) those transportation and warehousing activities defined or classified in the NAICS Manual under Industry Subsector No. 493, if not otherwise listed in this paragraph, Industry Subsector Nos. 482 and 484 and Industry Group Nos. 4884 through 4889,



- (b) those passenger transportation activities defined or classified in the NAICS Manual under Industry Nos. 561510 and 561599,
- (c) those freight or cargo transportation activities defined or classified in the NAICS Manual under Industry No. 541614,
- (d) those insurance activities defined or classified in the NAICS Manual under 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. 5412, 5414, 5415, 5416 and 5417, Industry Nos. 54131, 54133, 54136 and 54137, and U.S. Industry No. 541990, if not otherwise listed in this paragraph,
- (k) those communication service activities defined or classified in the NAICS Manual under Industry Nos. 51741 and 51791,
- (l) those refuse systems activities defined or classified in the NAICS Manual under Industry Group No. 5622, provided that the establishment is primarily engaged in the capture and distribution of methane gas produced within a landfill,
- (m) general wholesale distribution of groceries, defined or classified in the NAICS Manual under Industry Group Nos. 4244 and 4245,
- (n) those activities relating to processing of insurance claims, defined or classified in the NAICS Manual under U.S. Industry Nos. 524210 and 524292; provided, activities described in U.S. Industry Nos. 524210 and 524292 in the NAICS Manual other than processing of insurance claims shall not be 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 or refined petroleum products, defined or classified in the NAICS Manual under Industry Group No. 2111, 213111, 213112 or 486, subject to the limitations provided in paragraph 3 of this subsection and paragraph 3 of subsection B of this section,

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

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

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

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

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

(1) not more than fifty percent (50%) of the premium shall be paid by the employee,

(2) coverage for basic hospital care,

(3) coverage for physician care,

(4) coverage for mental health care,

(5) coverage for substance abuse treatment,

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

3. "New direct job":

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



or personal property having a market value of at least One Million Dollars (\$1,000,000.00) located in the state; provided, that if an application of an establishment is approved by the Oklahoma Department of Commerce after a change-in-control event and the Director of the Oklahoma Department of Commerce determines that the jobs located at such establishment are likely to leave the state, "new direct job" shall include employment that existed in this state prior to the date of application which is retained in this state by the new establishment following a change in control event, if such job otherwise qualifies as a new direct job, and

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

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

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

- a. the costs of education of new state resident children,
- b. the costs of public health, public safety and transportation services to be provided to new state residents,
- c. the costs of other state services to be provided to new state residents, and
- d. the costs of other state services;

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

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

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

(1) bids were solicited and accepted by the United States Department of Defense from facilities 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,

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

g. the net benefit rate shall not exceed six percent (6%) in connection with an establishment which employs United States military veterans in at least ten percent (10%) of its gross



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

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

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

9. a. "Establishment" means any business or governmental entity, no matter what legal form, including, but not limited to, a sole proprietorship; partnership; limited liability company; corporation or combination of corporations which have a central parent corporation which makes corporate management decisions such as those involving consolidation, acquisition, merger or expansion; federal agency; political subdivision of the State of Oklahoma; or trust authority; provided, distinct, identifiable subunits of such entities may be determined to be an 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 United States Armed Forces, but exclusive of any contract performed for the Federal Emergency Management Agency as a direct result of a natural disaster declared by the Governor or the President of the United States with respect to damage to property located in Oklahoma or loss of life



or personal injury to persons in Oklahoma, and a lawfully recognized business entity, whether or not the business entity is organized under the laws of the State of Oklahoma or whether or not the principal place of business of the business entity is located within the State of Oklahoma, for the performance of services, including but not limited to testing, research, development, consulting or other services in a basic industry, if the contract involves the performance of such services performed on or after July 1, 2009, by the employees of the business entity within the State of Oklahoma or if the contract involves the performance of such services performed on or after July 1, 2009, by employees of a lawfully recognized business entity that is a subcontractor of the business entity with which the prime contract has been formed. A qualified federal contract described in this paragraph shall not qualify unless both the qualified federal contractor and any subcontractors originally involved in the work or added subsequently during the period of performance verify to the qualified federal contractor verifier that it offers, or will offer within one hundred eighty (180) days of employment of its respective employees, a basic health benefits plan as described in subparagraph b of paragraph 1 of this subsection to individuals who perform qualified labor hours in this state;

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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



It shall be the duty of the Committee to determine the eligibility of all applicants for the Oklahoma Quality Jobs Program Act, subject to the applicable requirements.

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

*Laws 1993, SB 459, c. 275, § 3, emerg. eff. July 1, 1993; Amended by Laws 1994, SB 846, c. 7, § 2, emerg. eff. March 29, 1994; Amended by Laws 1994, HB 2093, c. 322, § 22, emerg. eff. June 8, 1994; Amended by Laws 1995, HB 1846, c. 349, § 1; Amended by Laws 1996, HB 2428, c. 3, § 16, emerg. eff. March 6, 1996; Amended by Laws 1996, SB 907, c. 73, § 1, emerg. eff. April 9, 1996; Amended by Laws 1996, HB 2146, c. 342, § 5, emerg. eff. July 1, 1996; Amended by Laws 1997, SB 668, c. 258, § 1, emerg. eff. May 23, 1997; Amended by Laws 1998, SB 782, c. 379, § 1, emerg. eff. July 1, 1998; Amended by Laws 1999, HB 1230 c. 79, § 2, emerg. eff. April 13, 1999; Amended by Laws 1999, SB 467, c. 134, § 2, emerg. eff. April 28, 1999; Amended by Laws 1999, SB 807, c. 426, § 3, emerg. eff. June 10, 1999; Amended by Laws 2000, SB 1326, c. 275, § 1, eff. January 1, 2001; Amended by Laws 2001, SB 648, c. 351, § 1, eff. November 1, 2001; Amended by Laws 2002, SB 828, c. 308, § 1, emerg. eff. July 1, 2002; Amended by Laws 2003, HB 1605, c. 377, § 1, emerg. eff. June 4, 2003; Amended by Laws 2004, SB 1527, c. 457, § 1, emerg. eff. July 1, 2004; Amended by Laws 2005, SB 407, c. 352, § 1, emerg. eff. June 6, 2005; Amended by Laws 2005, HB 1810, c. 390, § 1, emerg. eff. July 1, 2005 (repealed by Laws 2006, HB 3139, c. 16, § 75, emerg. eff. March 29, 2006); Amended by Laws 2006, HB 3139, c. 16, § 74, emerg. eff. March 29, 2006 (repealed by Laws 2007, HB 2195, c. 1, § 62, emerg. eff. February 22, 2007); Amended by Laws 2006, SB 1577, c. 281, § 31, emerg. eff. July 1, 2006; Amended by Laws 2007, HB 2195, c. 1, § 61, emerg. eff. February 22, 2007; Amended by Laws 2008, SB 1819, c. 35, § 1, emerg. eff. April 17, 2008; Amended by Laws 2008, SB 2153, c. 406, § 3, eff. November 1, 2008; Amended by Laws 2009, HB 1468, c. 369, § 1, emerg. eff. July 1, 2009; Amended by Laws 2009, HB 1953, c. 339, § 1, eff. November 1, 2009 (repealed by Laws 2010, SB 2113, c. 2, § 71, emerg. eff. March 3, 2010); Amended by Laws 2010, SB 2113, c. 2, § 70, emerg. eff. March 3, 2010; Amended by Laws 2010, SB 2128, c. 267, § 1, emerg. eff. July 1, 2010; Amended by Laws 2010, SB 2124, c. 347, § 1, eff. November 1, 2010; Amended by Laws 2011, SB 731, c. 268, § 1, eff. November 1, 2011; Amended by Laws 2012, HB 3079, c. 304, § 567 (repealed by Laws 2013, SB 977, c. 15, § 89, emerg. eff. April 8, 2013); Amended by Laws 2012, SB 1464, c. 310, § 1 (repealed by Laws 2013, SB 977, c. 15, § 90, emerg. eff. April 8, 2013); Amended by Laws 2012, SB 1235, c. 308, § 1, eff. November 1, 2012; Amended by Laws 2013, SB 977, c. 15, § 88, emerg. eff. April 8, 2013; Amended by Laws 2013, HB 1455, c. 227, § 23, eff. November 1, 2013; Amended by Laws 2013, SB 613, c. 378, § 1, eff. November 1, 2013; Amended by Laws 2014, HB 1416, c. 332, § 1, eff. November 1, 2014; Amended by Laws 2015, SB 71, c. 139, § 1, eff. November 1, 2015; Amended by Laws 2018, SB 897, c. 156, § 1, eff. November 1, 2018.*

#### 68 O.S. § 3604 – Quarterly Incentive Payments – Application – Qualifications and Requirements

A. Except as otherwise provided in subsection I or subsection L of this section, an establishment which meets the qualifications specified in the Oklahoma Quality Jobs Program Act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Jobs Program Act; provided, such an establishment defined or classified in the NAICS Manual under U.S. Industry No. 711211 (2007 version) may receive quarterly incentive payments for a fifteen-year period. The amount of such payments shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Oklahoma Employment Security Commission.

B. In order to receive incentive payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified. An establishment may apply for an effective date for a project, which shall not be more than twenty-four (24) months from the date the application is submitted to the Department.



C. Except as otherwise provided by subsection D or E of this section, in order to qualify to receive such payments, the establishment applying shall be required to:

1. Be engaged in a basic industry;
2. Have an annual gross payroll for new direct jobs projected by the Department to equal or exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the first complete calendar quarter following the start date; and
3. Have a number of full-time-equivalent employees subject to the tax imposed by Section 2355 of this title and working an annual average of thirty (30) or more hours per week in new direct jobs located in this state equal to or in excess of eighty percent (80%) of the total number of new direct jobs.

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

1. Industry Group Nos. 3111 through 3119 of the NAICS Manual shall be required to:
  - a. have an annual gross payroll for new direct jobs projected by the Department to equal or exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the first complete calendar quarter following the start date and make, or which will make within one (1) year, at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of Section 3603 of this title, to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, or to the federal government, unless the annual gross payroll equals or exceeds Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in which case the requirements for purchase of output provided by this subparagraph shall not apply, and
  - b. have a number of full-time-equivalent employees working an average of thirty (30) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs; and
2. Division (4) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title, shall be required to:
  - a. have an annual gross payroll for new direct jobs projected by the Department to equal or exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the first complete calendar quarter following the start date, and
  - b. have a number of full-time-equivalent employees working an average of thirty (30) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs.

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

- a. is a federal Superfund removal site,
- b. is listed on the National Priorities List established under Section 9605 of Title 42 of the United States Code,
- c. has been formally deferred to the state in lieu of listing on the National Priorities List, or



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

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

2. In order to qualify for the incentive payments pursuant to this subsection, the establishment shall conduct the activity resulting in at least fifty percent (50%) of its Oklahoma taxable income or adjusted gross income, as determined under Section 2358 of this title, whether from the sale of products or services or both products and services, at the physical location which has been determined not to comply with the federal or state statutes described in this subsection with respect to environmental conditions for real property. The establishment shall be subject to all other requirements of the Oklahoma Quality Jobs Program Act other than the exemptions provided by this subsection.

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

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

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

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

4. If authorized by the Department of Environmental Quality pursuant to paragraph 3 of this subsection, the entity may utilize a remediated portion of the property for its intended purpose prior to remediation of the remainder of the site, and shall qualify for incentive payments based on employment associated with the portion of the site.

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

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

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

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

G. 1. As used in this subsection, "opportunity zone" means one or more census tracts in which, according to the most recent Federal Decennial Census, at least thirty percent (30%) of the residents have annual gross



household incomes from all sources below the poverty guidelines established by the U.S. Department of Health and Human Services. An establishment which is otherwise qualified to receive incentive payments and which locates its principal business activity in an opportunity zone shall not be subject to the requirements of subsection F of this section.

2. As used in this subsection:

a. "negative economic event" means:

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

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

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

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

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

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

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



3603 and 3606 of this title and within the limitations contained in the Oklahoma Quality Jobs Program Act, which existed at the time of such approval. An establishment described in this subsection shall be required to repay all incentive payments received under the Oklahoma Quality Jobs Program Act if the establishment is determined by the Oklahoma Tax Commission to no longer have business operations in the state within three (3) years from the beginning of the calendar quarter for which the first incentive payment claim is filed.

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

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

*Laws 1993, SB 459, c. 275, § 4, emerg. eff. July 1, 1993; Amended by Laws 1994, SB 846, c. 7, § 3, emerg. eff. March 29, 1994; Amended by Laws 1995, HB 1846, c. 349, § 2, emerg. eff. July 1, 1995; Amended by Laws 1997, HB 1518, c. 147, § 1, emerg. eff. July 1, 1997; Amended by Laws 1997, SB 668, c. 258, § 2, emerg. eff. May 23, 1997; Amended by Laws 1998, HB 3284, c. 227, § 1, eff. November 1, 1998; Amended by Laws 1998, SB 782, c. 379, § 2, emerg. eff. July 1, 1998; Amended by Laws 1999, HB 1845, c. 1, § 25, emerg. eff. February 24, 1999; Amended by Laws 2000, HB 2031, c. 149, § 1, emerg. eff. April 28, 2000; Amended by Laws 2000, SB 1326, c. 275, § 2, eff. January 1, 2001; Amended by Laws 2001, SB 648, c. 351, § 2, eff. November 1, 2001; Amended by Laws 2002, HB 1222, c. 21, § 1, emerg. eff. March 8, 2002; Amended by Laws 2003, HB 1605, c. 377, § 2, emerg. eff. June 4, 2003; Amended by Laws 2004, SB 1527, c. 457, § 2, emerg. eff. July 1, 2004; Amended by Laws 2006, SB 1577, c. 281, § 32, emerg. eff. July 1, 2006 (repealed by Laws 2007, HB 2195, c. 1, § 64, emerg. eff. February 22, 2007); Amended by Laws 2006, SB 1587, c. 282, § 1, emerg. eff. July 1, 2006; Amended by Laws 2007, HB 2195, c. 1, § 63, emerg. eff. February 22, 2007; Amended by Laws 2007, SB 871, c. 357, § 1, emerg. eff. July 1, 2007; Amended by Laws 2008, SB 1819, c. 35, § 2, emerg. eff. April 17, 2008; Amended by Laws 2008, SB 2153, c. 406, § 5, eff. November 1, 2008; Amended by Laws 2013, HB 1455, c. 227, § 24, eff. November 1, 2013 (repealed by Laws 2014, SB 2122, c. 4, § 23, emerg. eff. April 2, 2014); Amended by Laws 2013, SB 613, c. 378, § 2, eff. November 1, 2013; Amended by Laws 2014, SB 2122, c. 4, § 22, emerg. eff. April 2, 2014; Amended by Laws 2018, HB 3324, c. 144, § 2.*

#### 68 O.S. § 3604.1 – Quarterly Incentive Payments to Qualified Federal Contractors

A. A qualified federal contractor may receive quarterly incentive payments for renewable ten-year periods from the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Jobs Program Act and the provisions of this section.

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



1. Not exceed twenty-five hundredths of one percent (0.25%) when annual qualified subcontract labor hours are less than Two Hundred Thousand Dollars (\$200,000.00) or when annual qualified subcontract labor is less than one percent (1%) of the annual total qualified labor hours claimed;
2. Not be less than five-tenths of one percent (0.5%) when subcontract goals are met with a minimum of Two Hundred Thousand Dollars (\$200,000.00) of annual total qualified subcontractor labor hours and these hours are a minimum of one percent (1%) of the annual total qualified hours claimed;
3. Not be less than one percent (1%) when subcontract goals are met with a minimum of One Million Dollars (\$1,000,000.00) of annual total qualified subcontractor labor hours and when these hours represent a minimum of five percent (5%) of the annual total qualified hours claimed;
4. Not be less than one and five-tenths percent (1.5%) when subcontract goals are met with a minimum of Two Million Dollars (\$2,000,000.00) of annual total qualified subcontractor labor hours and these hours are a minimum of ten percent (10%) of the annual total qualified hours claimed; and
5. Not be less than two percent (2.0%) when subcontract goals are met with a minimum of Four Million Dollars (\$4,000,000.00) of annual total qualified subcontractor labor hours and these hours are a minimum of twenty percent (20%) of the annual total qualified hours claimed.

C. In order to receive incentive payments, a qualified federal contractor shall apply to the Oklahoma Department of Commerce within one hundred eighty (180) days following the date of the award of a qualified federal contract or award of a new qualified subcontract under an existing qualified federal contract. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified. Once qualified by the Department, the applicant shall submit qualified federal contracts to the federal contract verifier. The federal contract verifier shall establish with the applicant an information system(s) or contract(s) as may be required to certify the total qualified labor hours, qualified labor rates, and reimbursement through the qualified federal contract. A qualified federal contractor may apply for an effective date for a project, which shall not be more than twenty-four (24) months from the date the application is submitted to the Department. No state agency shall be required to make any payment to a qualified federal contract verifier for any information needed by the agency to perform any duty imposed upon it pursuant to the provisions of Section 3601 et seq. of this title. All costs for the federal contract verifier shall be reimbursed through value-added services on the qualified federal contract or other mechanisms agreed to by the federal contractor verifier and the federal contract performers.

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

1. One hundred ten percent (110%) of the average county wage as determined by the Department of Commerce based on the most recent U.S. Department of Commerce data for the county in which the new direct jobs are located. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall be included in the annualized wage; or
2. One hundred percent (100%) of the average county wage as that percentage is determined by the Department of Commerce based upon the most recent U.S. Department of Commerce data for the county in which the new jobs are located. For purposes of this paragraph, health care premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage.

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



3. For qualified subcontractor work, the qualified federal contractor shall have a minimum average qualified labor rate requirement paid to the subcontractor of Thirty-one Dollars (\$31.00) per hour, in any county. This maximum wage threshold shall be indexed and modified from time to time based on the latest Consumer Price Index year-to-date percent change release as of the date of the annual average county wage data release from the Bureau of Economic Analysis of the U.S. Department of Commerce.

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

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

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

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

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



J. Before approving a quarterly incentive payment for a qualified federal contract, the federal contract verifier must first determine through the Department that neither the qualified federal contractor nor the subcontractor are receiving incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, the 21st Century Quality Jobs Incentive Act or the Former Military Facility Development Act for the performance of the same such services under the qualified federal contract and is not qualified for approval of an application for incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, the 21st Century Quality Jobs Incentive Act or the Former Military Facility Development Act for the performance of the same such services under the qualified federal contract. If the qualified federal contractor or the subcontractor are receiving or have an approved application for incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, the 21st Century Quality Jobs Incentive Act or the Former Military Facility Development Act for the performance of the same such services under the qualified federal contract, each may choose to defer in part or in entirety the other incentives for the qualified federal contractor to receive the incentives pursuant to subsection B of this section. The federal contract verifier shall confirm any deferrals and ensure the total for all quality jobs incentive payments on any individual does not exceed the total net benefit to the state. Should neither the federal contractor nor the subcontractor defer in part or in entirety their incentive payments such that the total for all Quality Jobs incentive payments exceeds the total net benefit to the state, the priority for incentive payments shall go to the entity with the earliest recognized start date identified within the current Department of Commerce Quality Jobs contract.

*Laws 2009, HB 1468, c. 369, § 2, emerg. eff. July 1, 2009; Amended by Laws 2010, SB 2128, c. 267, § 2, emerg. eff. July 1, 2010; Amended by Laws 2011, SB 731, c. 268, § 2, eff. November 1, 2011; Amended by Laws 2013, HB 1455, c. 227, § 25, eff. November 1, 2013.*

#### 68 O.S. § 3605 – Creation of Quality Jobs Program Incentive Payment Fund

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Quality Jobs Program Incentive Payment Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited shall equal the sum of an amount determined by multiplying the net benefit rate provided by the Department of Commerce by the gross payroll as determined pursuant to the provisions of subsection A of Section 6 of this act. All of the amounts deposited in such fund shall be used and expended by the Tax Commission solely for the purposes and in the amounts authorized by the Oklahoma Quality Jobs Program Act. The liability of the State of Oklahoma to make the incentive payments under this act shall be limited to the balance contained in the fund created by this section.

*Laws 1993, SB 459, c. 275, § 5, emerg. eff. July 1, 1993.*

#### 68 O.S. § 3606 – Claim for Incentive Payments

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



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

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

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

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

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

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

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

*Laws 1993, SB 459, c. 275, § 6, emerg. eff. July 1, 1993; Amended by Laws 1995, HB 1846, c. 349, § 3; Amended by Laws 1998, SB 782, c. 379, § 3, emerg. eff. July 1, 1998; Amended by Laws 2000, SB 1326, c. 275, § 3, eff. January 1, 2001; Amended by Laws 2001, SB 648, c. 351, § 3, eff. November 1, 2001; Amended by Laws 2004, SB 1527, c. 457, § 3, emerg. eff. July 1, 2004; Amended by Laws 2006, SB 1577, c.*



281, § 33, *emerg. eff. July 1, 2006 (repealed by Laws 2007, HB 2195, c. 1, § 66, emerg. eff. February 22, 2007); Amended by Laws 2006, SB 1587, c. 282, § 2, emerg. eff. July 1, 2006; Amended by Laws 2007, HB 2195, c. 1, § 65, emerg. eff. February 22, 2007; Amended by Laws 2007, SB 871, c. 357, § 2, emerg. eff. July 1, 2007; Amended by Laws 2008, SB 1819, c. 35, § 3, emerg. eff. April 17, 2008; Amended by Laws 2008, SB 2153, c. 406, § 6, eff. November 1, 2008; Amended by Laws 2012, SB 1235, c. 308, § 2, eff. November 1, 2012; Amended by Laws 2013, SB 613, c. 378, § 3, eff. November 1, 2013; Amended by Laws 2020, SB 1075, c. 138, § 1, emerg. eff. May 21, 2020.*

68 O.S. § 3607 – Eligibility to Receive Credits or Exemptions

A. Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of Section 3601 et seq. of this title, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the incentive payment was received:

1. Paragraphs 16 and 17 of Section 1357 of this title;
2. Paragraph 7 of Section 1359 of this title;
3. Section 2357.4 of this title; except as provided in subsection B of this section;
4. Section 2357.7 of this title;
5. Section 2-11-303 of Title 27A of the Oklahoma Statutes;
6. Section 2357.22 of this title;
7. Section 2357.31 of this title;
8. Section 54003 of this title;
9. Section 54006 of this title;
10. Section 625.1 of Title 36 of the Oklahoma Statutes;
11. Subsections C and D of Section 2357.59 of this title;
12. Section 2357.13 of this title; or
13. Section 4201 of this title.

B. Any establishment which has qualified to receive quarterly incentive payments pursuant to subsection B of Section 3604 of this title for a ten-year period with a project start date after January 1, 2010, shall be eligible to receive the credit provided for in Section 2357.4 of this title if such establishment:

1. Qualifies for the credit allowed pursuant to paragraph 1 of subsection B of Section 2357.4 of this title based on an investment made after January 1, 2010;
2. Pays an average annualized wage which equals or exceeds the average state wage as determined by the Department of Commerce based on the most recent U.S. Department of Commerce data; and
3. Obtains a determination letter from the Oklahoma Department of Commerce that the business activity of the entity will result in a positive net benefit rate.

C. For purposes of the exception provided for in this section:



1. "Estimated direct state benefits" has the meaning set out in paragraph 4 of subsection A of Section 3603 of this title;
2. "Estimated indirect state benefits" means the indirect new tax revenues projected by the Oklahoma Department of Commerce to accrue to the state, including, but not limited to, revenue generated from ancillary support jobs directly related to the primary business;
3. "Estimated direct state costs" has the meaning set out in paragraph 5 of subsection A of Section 3603 of this title; and
4. "Estimated indirect state costs" means the costs projected by the Oklahoma Department of Commerce to accrue to the state as a result of new indirect jobs. Such costs shall include, but not be limited to, costs enumerated in paragraph 3 of this subsection.

D. Any establishment which has qualified to receive quarterly incentive payments pursuant to subsection B of Section 3604 of this title for a ten-year period with a project start date after January 1, 2010, shall be eligible to receive the credit provided for in Section 2357.4 of this title pursuant to the provisions of this section if such establishment obtains a determination letter from the Oklahoma Department of Commerce that the business activity of the entity will result in a positive net benefit rate, to be computed by the Oklahoma Department of Commerce using a methodology which provides for the analysis of estimated direct state benefits, estimated indirect state benefits, estimated direct state costs and estimated indirect state costs. The Oklahoma Department of Commerce shall use such information as it determines to be relevant for the analysis required by this subsection including, but not limited to, the type of business activity in which the entity is engaged or will be engaged, amount of capital investment, type of assets acquired or utilized by the business entity, economic impact of the business activity within the relevant geographic region and such other factors as the Department determines to be relevant. The Oklahoma Department of Commerce may use information regarding the business entity alone or in conjunction with relevant information regarding other business activity in a geographically relevant area surrounding the principal business location of the primary business entity in order to perform the computation of the net benefit rate. If the result of the analysis is a positive net benefit rate, the establishment shall be allowed to qualify to receive quarterly incentive payments pursuant to subsection B of Section 3604 of this title for a ten-year period and shall be eligible to receive the credit provided for in Section 2357.4 of this title. The Oklahoma Department of Commerce shall transmit a determination letter to the authorized representative of the establishment and shall also transmit a copy of the determination letter to the Oklahoma Tax Commission, regardless of whether the result is a positive or negative net benefit rate.

*Laws 1993, SB 459, c. 275, § 7, eff. July 1, 1993; Amended by Laws 1994, SB 1121, c. 278, § 35, eff. September 1, 1994; Amended by Laws 1996, HB 2146, c. 342, § 6, emerg. eff. June 14, 1996; Amended by Laws 1997, SB 668, c. 258, § 3, emerg. eff. May 23, 1997; Amended by Laws 1999, SB 316, c. 390, § 14, emerg. eff. June 8, 1999; Amended by Laws 1999, SB 719, c. 203, § 2, emerg. eff. July 1, 1999 (repealed by Laws 2000, HB 2711, c. 6, § 33, emerg. eff. March 20, 2006); Amended by Laws 2000, HB 2711, c. 6, § 16, emerg. eff. March 20, 2000; Amended by Laws 2008, SB 2153, c. 406, § 7, eff. November 1, 2008; Amended by Laws 2009, SB 909, c. 284, § 1, eff. January 1, 2010; Amended by Laws 2013, HB 1455, c. 227, § 26, eff. November 1, 2013.*

#### 68 O.S. § 3608 – Promulgation of Rules

The Department of Commerce and the Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of this act.

*Laws 1993, SB 459, c. 275, § 8, emerg. eff. July 1, 1993.*

#### 68 O.S. § 3609 – Penalty for False or Fraudulent Information

Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of this act who willfully makes a false or fraudulent



application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00), or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

*Laws 1993, SB 459, c. 275, § 9, emerg. eff. July 1, 1993.*

68 O.S. § 3610 – Triennial Report by Oklahoma Department of Commerce

The Oklahoma Department of Commerce shall prepare triennially a report which shall include, but not be limited to, documentation of the new direct jobs created under the Oklahoma Quality Jobs Program Act and a fiscal analysis of the costs and benefits of the Program to the state. The report shall be submitted to the President Pro Tempore of the Senate, the Speaker of the House of Representatives and the Governor of this state no later than March 1, 1996, and every three (3) years thereafter. The report may be used for the purpose of determining whether to continue or sunset the Oklahoma Quality Jobs Program Act.

*Laws 1994, HB 2093, c. 322, § 13, emerg. eff. June 8, 1994; Amended by Laws 1996, SB 689, c. 112, § 1, eff. November 1, 1996.*

68 O.S. § 3611 – Payroll Described for Purposes of Payroll Projection

A. For purposes of the payroll projection required to be made by the Department of Commerce pursuant to paragraph 2 of subsection C of Section 3604 of Title 68 of the Oklahoma Statutes, the Department of Commerce shall include payroll for all jobs created by an establishment as a result of an expanded or new facility, regardless of whether the jobs meet the definition of new direct jobs if:

1. The establishment is defined or classified under Industry Numbers 3443, 3556 or 3728 of the Standard Industrial Classification (SIC) Manual, latest version;
2. The jobs were not created by the establishment more than ten (10) calendar quarters prior to the date of approval of the application by the Department of Commerce; and
3. The establishment's application is approved by the Department of Commerce prior to January 30, 1997.

B. When payroll described in subsection A of this section is included by the Department of Commerce in the projection required by paragraph 2 of subsection C of Section 3604 of Title 68 of the Oklahoma Statutes, then the three-year period of such projection shall begin the month after included payroll is first paid by the establishment, and not on the anticipated date on which the establishment will receive its first incentive payment.

C. For the purpose of determining if an establishment has met the requirements of subsection B of Section 3606 of Title 68 of the Oklahoma Statutes, the Tax Commission shall include payroll for any jobs which the Department of Commerce included in its projection pursuant to the provisions of subsection A of this section. If payroll for such jobs is included, then the three-year period defined in subsection B of Section 3603 of Title 68 of the Oklahoma Statutes shall begin the month after included payroll is first paid by the establishment and not on the date of the first incentive payment.

D. For the purpose of calculating incentive payments as provided by Section 3606 of Title 68 of the Oklahoma Statutes, the Tax Commission shall include payroll for those jobs which meet the requirements of subsections A and C of this section regardless of whether such jobs fall within the definition of a new direct job; provided,



an establishment shall in no event be entitled to such incentive payments on payroll made prior to the date of approval of its application by the Department of Commerce.

*Laws 1996, HB 2146, c. 342, § 7, emerg. eff. June 14, 1996.*

68 O.S. § 3612 – Establishment and Jobs

A. For purposes of the determination required to be made by the Department of Commerce pursuant to paragraph 2 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes, the Department of Commerce shall include jobs created by an establishment as a result of a retained, expanded or new facility if:

1. The establishment and jobs are defined or classified under Industry Number 326211 of the NAICS Manual;
2. The jobs were not created by the establishment more than fourteen (14) calendar quarters prior to the date of approval of the application by the Department of Commerce; and
3. The establishment's application has been approved by the Department of Commerce prior to March 30, 1997.

B. For the purpose of calculating incentive payments as provided by Section 3606 of Title 68 of the Oklahoma Statutes, the Oklahoma Tax Commission shall include payroll for those jobs which meet the requirements of subsection A of this section regardless of whether such jobs fall within the definition of a new direct job; provided, an establishment shall in no event be entitled to such incentive payments on payroll for those jobs which meet the requirements of subsection A of this section made prior to the effective date of this act. No claims may be made for such payroll prior to July 1, 2004.

*Laws 2003, HB 1593, c. 376, § 5, emerg. eff. July 1, 2003.*



### Appendix B: Comparable State Programs

Quality Jobs Program Benchmarking						
	Oklahoma	Arkansas	Colorado	Kansas	Louisiana	Missouri
<b>Name</b>	Quality Jobs	Create Rebate	Job Growth Incentive Tax Credit	PEAK	Quality Jobs	Missouri Works
<b>Job Creation Requirement</b>	None	None	20 new jobs;	10 or more new jobs in metropolitan areas;	15 New Jobs	10 or more new jobs;
			5 new jobs if business is located in an Enhanced Rural Enterprise Zone	5 new jobs in other areas		2 or more if located in rural area or other designated zone
<b>New Payroll Requirement</b>	\$2.5 Million	\$1.25 million to \$2 million, depending on location	None	None	\$675,000 for businesses with 50 or more employees	None
					\$225,000 for businesses with under 50 employees	
<b>Wage Requirement</b>	Wages paid to new jobs must be greater than or equal to the average County wage where the business is located	Wages must be equal to the greater of the lowest county average wage or \$12.50 per hour	Average wage greater than or equal to the county average wage	Wages must be greater than or equal to the county median wage where the company is located	\$18 per hour for 4 percent rebate	90% of County Avg Wage*
					\$21.66 per hour for 6 percent rebate	



**Quality Jobs Program Benchmarking (continued)**

	Oklahoma	Arkansas	Colorado	Kansas	Louisiana	Missouri
<b>Health Insurance Requirement</b>	Employees must pay no more than 50 percent of the premium cost	None	None	Full-time employees must be offered health insurance and the company must pay at least 50 percent of premium	\$1.25 per hour in health care benefits for full-time employees	Full-time employees must be offered health insurance and the company must pay at least 50 percent of premium
					Must offer coverage for dependents of full-time employees	
					At least 50 percent of employees in new jobs must accept coverage	
<b>Capital Investment Requirement</b>	None	None	None	None	None	Capital investment of \$100,000 required if company is located in rural area or other designated zone where the job creation requirement is 2
<b>Benefit Type</b>	Cash Rebate	Cash Rebate	Income Tax Credit	Retention of State payroll withholding tax	Cash Rebate	Retention of State payroll withholding tax and tax credits
<b>Benefit Amount</b>	Up to 5 or 6 percent of Qualified Payroll	3.9% to 5%, depending on location	50 percent of FICA paid on new jobs	Retention of 95 percent of State payroll withholding tax	4 or 6 percent of payroll	Retention of 100 percent of State payroll withholding tax and tax credit of 6 to 7 percent of new payroll
<b>Benefit Period</b>	Up to 10 Years	10 Years	8 Years	5 to 7 Years, depending on wage levels	5 Years	5 or 6 Years
<b>Aggregate Program Cap</b>	None	None	None	None	None	\$116 million



## Appendix C: Quality Jobs Eligible Industries

### Basic Industries:

#### **Manufacturing**

Industries classified under NAICS Manual Nos. 31, 32, 33, 5111 or 11331.

#### **Research and Development and Testing Laboratories**

See NAICS Manual Nos. 541711, 541712 and 541380.

#### **Central Administrative Offices, Corporate Offices and Technical Services**

See NAICS Manual Nos. 5611, 5612, 51821, 519130, 52232, 56142, 524291, 551114.

#### **Certain jobs related to the mining of oil and gas**

See NAICS No. 2111, 213111 and 213112; 486

#### **Certain Warehouse/Distribution Operations**

See NAICS manual 42 where 40% of inventory is shipped out of state.

#### **Transportation by Air**

See NAICS Manual No. 4811 if corporate headquarters and some reservation activities are within the state or 75% of air transport sales are to out-of-state consumers.

#### **Flight Training Services**

See NAICS No. 611512

#### **Federal Civilian Workforce of the Federal Aviation Administration**

Where jobs are migrating to Oklahoma from other Federal sites, or expansion here

#### **Other Support Activities for Air Transportation**

See NAICS Manual No. 488190

#### **Wind Power Electric Generation Equipment Repair & Maintenance**

See NAICS Manual No. 811310

#### **Support Activities for Rail and Water Transport**

See NAICS Manual Nos. 4882, 4883

#### **Sports Teams & Clubs**

See NAICS Manual No. 711211

### Service industries requiring 75% of sales to be to out-of-state customers:

#### **Rail Transportation**

See NAICS Nos. 482

#### **Motor Freight Transportation and Warehousing**

See NAICS Nos. 493, 484, 4884-4889

#### **Arrangement of Passenger Transportation**

See NAICS Nos. 561510, 561599



**Transportation of Freight or Cargo**

See NAICS No. 541614

**Certain Communications Services**

See NAICS Nos. 517110, 51741 and 51791

**Certain Refuse Systems that distribute methane gas**

See NAICS No. 5622

**Grocery Wholesale Distributing**

See NAICS Nos. 4244 and 4245

**Securities, Commodities, Investments**

See NAICS No. 523

**Insurance Carriers**

See NAICS No. 5241

**Insurance Claims Processors Only**

Included in NAICS Nos. 524210 and 524292

**Adjustment and Collection Services**

See NAICS No. 561440 (75% of loans to out-of-state debtors)

**Miscellaneous Equipment Rental**

See NAICS Nos. 5324

**Computer Programming, Data Processing and Other:**

**Computer Related Services**

See NAICS Nos. 5112, 5182, 5191, 519130, and 5415

**Miscellaneous Business Services**

See NAICS Nos. 561410, 56142, and 51911

**Offices of Real Estate Agents & Brokers**

See NAICS No. 53120 (and 75% of transactions are out of state)

**Medical and Diagnostic Laboratories**

See NAICS No. 6215

**Engineering, Management and Related Services**

See NAICS Nos. 5412, 5414-5417, 54131, 54133, 54136, 54137, and 541990

**Agricultural Production**

See NAICS Nos. 112120

**Professional Organizations**

See NAICS No. 813920

**Alternative Energy Structure Construction**

See NAICS No. 237130



**Alternative Energy Equipment Installation**

See NAICS Nos. 238160, 238220

**Electric Service Companies**

The program also applies to electric services companies within NAICS Nos. 221111-221122 - Exempt Electric Wholesale Generators, if 90% of energy input is consumed from in-state sources and 90% of sales are out-of-state.



## Appendix D: Reported Jobs and Payroll

Table 7: Reported Jobs by Sector

<b>2-Digit NAICS</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
21	2,279	3,281	3,607	3,361	2,995	1,267	488	454
22	1	12	0	0	0	0	0	0
31-33	8,473	11,221	11,234	11,461	8,869	5,039	4,780	5,469
42	1,119	1,332	1,315	848	461	394	309	349
48-49	314	300	239	42	296	541	546	563
51	63	141	175	95	136	297	311	189
52	556	675	669	635	571	579	0	16
53	4	17	11	19	27	27	27	27
54	584	764	1,007	1,476	1,687	2,054	2,016	2,361
55	2,100	2,205	1,288	824	816	589	757	920
56	4,542	4,205	4,224	3,299	1,980	1,745	1,727	1,485
61	51	88	33	8	0	0	0	0
71	195	187	165	170	177	182	191	203
Other	754	118	0	0	0	0	0	1
<b>Total</b>	<b>21,035</b>	<b>24,543</b>	<b>23,966</b>	<b>22,235</b>	<b>18,014</b>	<b>12,712</b>	<b>11,149</b>	<b>12,036</b>

Table 8: Reported Payroll by Sector (millions)

<b>2-Digit NAICS</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
21	\$237.2	\$309.5	\$388.4	\$465.0	\$508.7	\$226.6	\$106.5	\$101.1
22	\$0.0	\$0.4	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
31-33	\$449.5	\$619.7	\$673.2	\$709.1	\$554.7	\$314.0	\$312.8	\$323.7
42	\$42.3	\$55.4	\$62.2	\$50.2	\$35.3	\$19.4	\$15.5	\$15.4
48-49	\$9.0	\$9.0	\$7.2	\$2.1	\$13.1	\$19.5	\$19.9	\$21.7
51	\$4.9	\$8.3	\$10.2	\$7.8	\$8.5	\$16.8	\$18.7	\$12.7
52	\$19.4	\$22.6	\$22.0	\$21.7	\$20.6	\$21.6	\$0.0	\$1.2
53	\$0.2	\$1.5	\$2.7	\$4.7	\$4.8	\$3.5	\$4.7	\$5.9
54	\$44.2	\$50.6	\$63.9	\$91.8	\$115.1	\$139.4	\$122.6	\$141.4
55	\$243.6	\$257.7	\$170.5	\$111.5	\$109.1	\$69.1	\$87.7	\$112.3
56	\$192.3	\$186.2	\$195.0	\$150.7	\$100.1	\$77.2	\$77.0	\$72.1
61	\$3.2	\$6.0	\$2.4	\$0.6	\$0.0	\$0.0	\$0.0	\$0.0
71	\$61.8	\$67.6	\$74.3	\$81.8	\$101.5	\$110.3	\$125.2	\$171.4
Other	\$32.0	\$6.7	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0	\$0.0
<b>Total</b>	<b>\$1,339.6</b>	<b>\$1,601.0</b>	<b>\$1,672.0</b>	<b>\$1,697.1</b>	<b>\$1,571.6</b>	<b>\$1,017.3</b>	<b>\$890.8</b>	<b>\$978.9</b>



## **Appendix E: IMPLAN Economic Impact Methodology**

The economic impact methodology utilized to determine the multiplier effects is IMPLAN (Impact Analysis for PLANning), a proprietary model; PFM has obtained a license for use of the IMPLAN model for these evaluations.

IMPLAN's Social Accounting Matrices (SAMs) capture the actual dollar amounts of all business transactions taking place in a regional economy as reported each year by businesses and governmental agencies. SAM accounts are a better measure of economic flow than traditional input-output accounts because they include "non-market" transactions. Examples of these transactions would be taxes and unemployment benefits.

### Multipliers

SAMs can be constructed to show the effects of a given change on the economy of interest. These are called Multiplier Models. Multiplier Models study the impacts of a user-specified change in the chosen economy for 440 different industries. Because the Multiplier Models are built directly from the region-specific SAMs, they will reflect the region's unique structure and trade situation.

Multiplier Models are the framework for building impact analysis questions. Derived mathematically, these models estimate the magnitude and distribution of economic impacts, and measure three types of effects which are displayed in the final report. These are the direct, indirect, and induced changes within the economy. Direct effects are determined by the Event as defined by the user (i.e. a \$10 million order is a \$10 million direct effect). The indirect effects are determined by the amount of the direct effect spent within the study region on supplies, services, labor, and taxes. Finally, the induced effect measures the money that is re-spent in the study area as a result of spending from the indirect effect. Each of these steps recognizes an important leakage from the economic study region spent on purchases outside of the defined area. Eventually, these leakages will stop the cycle.

