

STATE OF OKLAHOMA

1st Session of the 60th Legislature (2025)

SENATE BILL 470

By: Kirt

AS INTRODUCED

An Act relating to incentive payments; amending 68 O.S. 2021, Section 3604, as last amended by Section 157, Chapter 452, O.S.L. 2024 (68 O.S. Supp. 2024, Section 3604), which relates to the Oklahoma Quality Jobs Program Act; requiring establishment to provide certain leave to qualify to receive incentive payments; updating statutory references; updating statutory language; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2021, Section 3604, as last amended by Section 157, Chapter 452, O.S.L. 2024 (68 O.S. Supp. 2024, Section 3604), is amended to read as follows:

Section 3604. 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

1 thirty-year period. The amount of such payments shall be equal to
2 the net benefit rate multiplied by the actual gross payroll of new
3 direct jobs for a calendar quarter as verified by the Oklahoma
4 Employment Security Commission. For an establishment defined or
5 classified in the NAICS Manual under U.S. Industry No. 711211 (2007
6 version) that entered into a contract pursuant to the Oklahoma
7 Quality Jobs Program Act with the Oklahoma Department of Commerce
8 before ~~the effective date of this act~~ November 1, 2023:

9 1. The contract shall be extended from fifteen (15) years to
10 thirty (30) years; and

11 2. The extension shall not include additional money awarded but
12 shall allow for payments to continue for the thirty-year period, or
13 until the net benefit for the new direct jobs for the original
14 contract has been fully paid out as calculated based upon the
15 original application.

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

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

4 1. Be engaged in a basic industry;

5 2. Have an annual gross payroll for new direct jobs projected
6 by the Oklahoma Department of Commerce to equal or exceed Two
7 Million Five Hundred Thousand Dollars (\$2,500,000.00) within three
8 (3) years of the first complete calendar quarter following the start
9 date; ~~and~~

10 3. Have a number of full-time-equivalent employees subject to
11 the tax imposed by Section 2355 of this title and working an annual
12 average of thirty (30) or more hours per week in new direct jobs
13 located in this state equal to or in excess of eighty percent (80%)
14 of the total number of new direct jobs; and

15 4. For applications submitted after the effective date of this
16 act, provide at least twelve (12) weeks of paid family leave and at
17 least two (2) weeks of additional paid leave for new direct jobs.

18 For the purposes of this paragraph, "paid family leave" shall
19 include:

20 a. all leave entitled to eligible employees as otherwise
21 provided in the Family and Medical Leave Act of 1993,
22 29 U.S.C., Section 2601 et seq., and

23 b. payment for leave equal to at least one hundred
24 percent (100%) of the employee's wage.

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

4 1. Industry Group Nos. 3111 through 3119 of the NAICS Manual
5 shall be required to:

- 6 a. have an annual gross payroll for new direct jobs
7 projected by the Oklahoma Department of Commerce to
8 equal or exceed One Million Five Hundred Thousand
9 Dollars (\$1,500,000.00) within three (3) years of the
10 first complete calendar quarter following the start
11 date and make, or which will make within one (1) year,
12 at least seventy-five percent (75%) of its total
13 sales, as determined by the Incentive Approval
14 Committee pursuant to the provisions of subsection B
15 of Section 3603 of this title, to out-of-state
16 customers or buyers, to in-state customers or buyers
17 if the product or service is resold by the purchaser
18 to an out-of-state customer or buyer for ultimate use,
19 or to the federal government, unless the annual gross
20 payroll equals or exceeds Two Million Five Hundred
21 Thousand Dollars (\$2,500,000.00) in which case the
22 requirements for purchase of output provided by this
23 subparagraph shall not apply, and
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1 b. have a number of full-time-equivalent employees
2 working an average of thirty (30) or more hours per
3 week in new direct jobs equal to or in excess of
4 eighty percent (80%) of the total number of new direct
5 jobs; and

6 2. Division (4) of subparagraph a of paragraph 1 of subsection
7 A of Section 3603 of this title, shall be required to:

8 a. have an annual gross payroll for new direct jobs
9 projected by the Oklahoma Department of Commerce to
10 equal or exceed One Million Five Hundred Thousand
11 Dollars (\$1,500,000.00) within three (3) years of the
12 first complete calendar quarter following the start
13 date, and

14 b. have a number of full-time-equivalent employees
15 working an average of thirty (30) or more hours per
16 week in new direct jobs equal to or in excess of
17 eighty percent (80%) of the total number of new direct
18 jobs.

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

21 a. is a federal Superfund removal site,
22 b. is listed on the National Priorities List established
23 under 42 U.S.C., Section 9605 ~~of Title 42 of the~~
24 ~~United States Code,~~

1 c. has been formally deferred to the state in lieu of
2 listing on the National Priorities List, or

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

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

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

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

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

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

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

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

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

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

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

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

20 G. 1. As used in this subsection, "opportunity zone" means one
21 or more census tracts in which, according to the most recent Federal
22 Decennial Census, at least thirty percent (30%) of the residents
23 have annual gross household incomes from all sources below the
24 poverty guidelines established by the U.S. Department of Health and

1 Human Services. An establishment which is otherwise qualified to
2 receive incentive payments and which locates its principal business
3 activity in an opportunity zone shall not be subject to the
4 requirements of subsection F of this section.

5 2. As used in this subsection:

6 a. "negative economic event" means:

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

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

18 b. "significant number of jobs" means Local Area
19 Unemployment Statistics (LAUS) data, as determined by
20 the Bureau of Labor Statistics, for a county which are
21 equal to or in excess of five percent (5%) of the
22 total amount of Local Area Unemployment Statistics
23 (LAUS) data for that county for the calendar year, or

1 most recent twelve-month period in which employment is
2 measured, preceding the event.

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

11 H. The Oklahoma Department of Commerce shall determine if the
12 applicant is qualified to receive incentive payments.

13 I. If the applicant is determined to be qualified by the
14 Oklahoma Department of Commerce and is not subject to the provisions
15 of subparagraph d of paragraph 7 of subsection A of Section 3603 of
16 this title, the Department shall conduct a cost/benefit analysis to
17 determine the estimated net direct state benefits and the net
18 benefit rate applicable for a ten-year period beginning with the
19 first complete calendar quarter following the start date and to
20 estimate the amount of gross payroll for a ten-year period beginning
21 with the first complete calendar quarter following the start date or
22 for a thirty-year period for an establishment defined or classified
23 in the NAICS Manual under U.S. Industry No. 711211 (2007 version).
24 In conducting such cost/benefit analysis, the Department shall

1 consider quantitative factors, such as the anticipated level of new
2 tax revenues to the state along with the added cost to the state of
3 providing services, and such other criteria as deemed appropriate by
4 the Department. In no event shall incentive payments, cumulatively,
5 exceed the estimated net direct state benefits, except for
6 applicants subject to the provisions of subparagraph d of paragraph
7 7 of subsection A of Section 3603 of this title.

8 J. Upon approval of such an application, the Oklahoma
9 Department of Commerce shall notify the Tax Commission and shall
10 provide it with a copy of the contract and the results of the
11 cost/benefit analysis. The Tax Commission may require the qualified
12 establishment to submit such additional information as may be
13 necessary to administer the provisions of the Oklahoma Quality Jobs
14 Program Act. The approved establishment shall file quarterly claims
15 with the Tax Commission and shall continue to file such quarterly
16 claims during the ten-year incentive period to show its continued
17 eligibility for incentive payments, as provided in Section 3606 of
18 this title, or until it is no longer qualified to receive incentive
19 payments. The establishment may be audited by the Tax Commission to
20 verify such eligibility. Once the establishment is approved, an
21 agreement shall be deemed to exist between the establishment and the
22 State of Oklahoma, requiring the continued incentive payment to be
23 made as long as the establishment retains its eligibility as defined
24 in and established pursuant to this section and Sections 3603 and

1 3606 of this title and within the limitations contained in the
2 Oklahoma Quality Jobs Program Act, which existed at the time of such
3 approval. An establishment described in this subsection shall be
4 required to repay all incentive payments received under the Oklahoma
5 Quality Jobs Program Act if the establishment is determined by the
6 Oklahoma Tax Commission to no longer have business operations in the
7 state within three (3) years from the beginning of the calendar
8 quarter for which the first incentive payment claim is filed.

9 K. A municipality with a population of less than one hundred
10 thousand (100,000) persons in which an establishment eligible to
11 receive quarterly incentive payments pursuant to the provisions of
12 this section is located may file a claim with the Tax Commission for
13 up to twenty-five percent (25%) of the amount of such payment. The
14 amount of such claim shall not exceed amounts paid by the
15 municipality for direct costs of municipal infrastructure
16 improvements to provide water and sewer service to the
17 establishment. Such claim shall not be approved by the Tax
18 Commission unless the municipality and the establishment have
19 entered into a written agreement for such claims to be filed by the
20 municipality prior to submission of the application of the
21 establishment pursuant to the provisions of this section. If such
22 claim is approved, the amount of the payment to the establishment
23 made pursuant to the provisions of Section 3606 of this title shall
24 be reduced by the amount of the approved claim by the municipality

1 and the Tax Commission shall issue a warrant to the municipality in
2 the amount of the approved claim in the same manner as warrants are
3 issued to qualifying establishments.

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

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

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