An Act

ENROLLED HOUSE
BILL NO. 1455

By: Murphey and Walker of the House

and

Treat of the Senate

An Act relating to governmental entities; creating the Streamlining and Savings Act of 2013; amending 2 O.S. 2011, Section 10-9.12, which relates to the Oklahoma Registered Poultry Feeding Operations Act; removing requirement to consider comments by the rule advisory committee; repealing 2 O.S. 2011, Sections 18-43.1, 18-43.2, 18-43.3 and 18-43.4, which relate to the Oklahoma Dairy Promotion Act; repealing 18 O.S. 2011, Section 381.5a, which relates to the Savings and Loan Advisory Council; amending 27A O.S. 2011, Section 1-1-202, which relates to the powers and duties of the state environmental agencies; deleting the State Water Quality Standards Advisory Committee; deleting duties of the Committee; amending 27A O.S. 2011, Section 2-2-201, which relates to advisory councils; removing certain advisory council; adding jurisdictional areas for certain advisory council; deleting membership requirements of certain advisory council; repealing 36 O.S. 2011, Section 2211, which relates to the Health Care Indemnity Fund Task Force; repealing 53 O.S. 2011, Section 7.3, which relates to the Buffalo Soldiers Heritage Corridor Advisory Committee; amending 53 O.S. 2011, Sections 400 and 402, which relate to the Oklahoma American Civil War Sesquicentennial Commission; providing sunset date for Commission and advisory council; repealing 57 O.S. 2011, Section 508.2c, as amended by Section 244, Chapter 304, O.S.L. 2012 (57 O.S. Supp. 2012, Section 508.2c), which relates to the creation of the Oklahoma Integrated Justice Information Systems (OIJIS) Steering Committee; repealing 59 O.S. 2011, Section 1103, as amended by Section 1, Chapter 55, O.S.L. 2012 (59 O.S. Supp.

2012, Section 1103), which relates to waterworks and wastewater works advisory council; repealing 60 O.S. 2011, Sections 180.51, 180.52, 180.53, 180.54 and 180.55, which relate to trusts for water pollution control projects; amending 62 O.S. 2011, Section 35.8, as last amended by Section 64 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, which relates to the Information Technology Consolidation and Coordination Act; deleting references to the Oklahoma Integrated Justice Information Systems Steering Committee; amending 63 O.S. 2011, Section 683.6, which relates to the Emergency Management Advisory Council; abolishing the Emergency Management Advisory Council; amending 63 O.S. 2011, Sections 683.26 and 683.28, which relate to the Oklahoma Office of Volunteerism; abolishing the Oklahoma Office of Volunteerism; deleting references to the Oklahoma Office of Volunteerism; repealing 63 O.S. 2011, Sections 683.27, as amended by Section 507, Chapter 304, O.S.L. 2012, 683.30 and 683.31 (63 O.S. Supp. 2012, Section 683.27), which relate to the transfer of the Oklahoma Office of Volunteerism and duties of the Oklahoma Commission on Volunteerism; repealing 66 O.S. 2011, Section 323.1, which relates to the Eastern Flyer Passenger Rail Development Task Force; amending 68 O.S. 2011, Section 205, which relates to the Oklahoma Tax Commission; removing references to the Incentive Review Committee; repealing 68 O.S. 2011, Section 205.4, which relates to the Incentive Review Committee; repealing 68 O.S. 2011, Section 1354.12 and 1354.13, which relate to the Legislative Oversight Committee on the Streamlined Sales Tax System; amending 68 O.S. 2011, Section 3603, as last amended by Section 88 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, which relates to the Oklahoma Quality Jobs Program Act; modifying definition; amending 68 O.S. 2011, Section 3604, which relates to Oklahoma Quality Jobs Program Act; modifying reference to Oklahoma State Data Center; amending 68 O.S. 2011, Section 3604.1, which relates to Oklahoma Quality Jobs Program Act; modifying reference to Oklahoma State Data Center; amending 68 O.S. 2011, Section 3607, which relates to Oklahoma Quality Jobs Program Act; modifying

reference to Oklahoma State Data Center; amending 68 O.S. 2011, Section 3903, which relates to Small Employer Quality Jobs Incentive Act; modifying reference to Oklahoma State Data Center; amending 68 O.S. 2011, Section 3904, which relates to Small Employer Quality Jobs Incentive Act; modifying reference to Oklahoma State Data Center; amending 68 O.S. 2011, Section 3914, which relates to 21st Century Quality Jobs Incentive Act; modifying reference to Oklahoma State Data Center; repealing 69 O.S. 2011, Sections 420 and 421, as amended by Section 573, Chapter 304, O.S.L. 2012 (69 O.S. Supp. 2012, Section 421), which relate to Safe Routes to Schools program; repealing 73 O.S. 2011, Section 310, as amended by Section 690, Chapter 304, O.S.L. 2012 (73 O.S. Supp. 2012, Section 310), which relates to the State Facility Capital Needs Committee; repealing Section 6, Chapter 417, O.S.L. 1997, which relates to the State Facility Capital Needs Committee; amending 74 O.S. 2011, Section 2236, which relates to the Office of the Oklahoma Film and Music Commission; changing name of the Office; deleting the Oklahoma Film and Music Commission; deleting the membership and duties of the Commission; repealing 74 O.S. 2011, Sections 2286, 2287, 2288, as amended by Section 999, Chapter 304, O.S.L. 2012, 2289, 2290, 2291, 2292 and 2293 (74 O.S. Supp. 2012, Section 2288), which relate to the Oklahoma Recreation and Development Revolving Fund Advisory Act; providing for transfer of certain funds; amending 74 O.S. 2011, Section 4190, as amended by Section 1019, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 4190), which relates to child care centers for state employees; deleting advisory committee; amending 74 O.S. 2011, Section 5003.10a, which relates to the Department of Commerce; removing references to the International Trade Legislative Advisory Committee; repealing 74 O.S. 2011, Section 5003.10c, which relates to the International Trade Legislative Advisory Committee; repealing 74 O.S. 2011, Sections 5018 and 5019, as amended by Section 1031, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 5019), which relate to the Oklahoma State Data Center; amending 74 O.S. 2011, Sections 5060.1a, 5060.2, as amended by Section 1035, Chapter 304, O.S.L. 2012, 5060.3, 5060.4, 5060.9,

5060.22 and 5060.30, as amended by Section 1039, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Sections 5060.2 and 5060.30), which relate to the Oklahoma Science and Technology Research and Development Act; deleting references to the Oklahoma Institute of Technology; deleting mission or purpose of the Institute; deleting definition; deleting certain powers and duties of the Oklahoma Science and Technology Research and Development Board; modifying the Oklahoma Institute of Technology Trust Fund; repealing 74 O.S. 2011, Section 5212, which relates to the Spaceport Territory Advisory Council; repealing 74 O.S. 2011, Section 8401, as amended by Section 1052, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 8401), which relates to the War on Terror Memorial Design Committee; amending 75 O.S. 2011, Sections 250.10, 303, 502, 504 and 505, which relate to the Small Business Regulatory Review Committee; modifying references; repealing 75 O.S. 2011, Section 503, which relates to the Small Business Regulatory Review Committee; repealing Section 2, Chapter 335, O.S.L. 2007, which relates to the Task Force on Dynamic Revenue Forecasting; repealing Section 1, Chapter 163, O.S.L. 2008, which relates to the marginal-quality water technical work group; providing for noncodification; and providing an effective date.

SUBJECT: Streamlining and Savings Act of 2013

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

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Streamlining and Savings Act of 2013".

SECTION 2. AMENDATORY 2 O.S. 2011, Section 10-9.12, is amended to read as follows:

Section 10-9.12 A. The State Board of Agriculture ~~after consideration of comments by the rule advisory committee~~ shall

promulgate rules for the administration, implementation and enforcement of the Oklahoma Registered Poultry Feeding Operations Act.

B. 1. The State Board of Agriculture shall promulgate a violation points system for persons violating the Oklahoma Registered Poultry Feeding Operations Act which provides that:

a. violations involving the greatest harm to the natural resources of the state, ground or surface water quantity or quality, public health or the environment shall receive the most points and shall be considered significant violations,

b. violations that are committed willfully or intentionally shall be considered significant violations,

c. the number of points received shall be directly related to the degree of negligence or willfulness,

d. the commission of three significant violations, or the commission of lesser violations that result in a predetermined cumulative number of points, within a limited period of time of not less than two (2) years shall result in the mandatory designation of the registered poultry feeding operation as a concentrated animal feeding operation subject to the Oklahoma Concentrated Animal Feeding Operations Act, and

e. the commission of one significant violation that results in serious harm may result in the designation of the poultry operation as a concentrated animal feeding operation subject to the Oklahoma Concentrated Animal Feeding Operations Act.

2. In developing the violation points system pursuant to this subsection, the Board shall determine the:

a. number of points that lesser violations must cumulatively total to result in the designation of the poultry operation as a concentrated animal feeding operation subject to the Oklahoma Concentrated Animal Feeding Operations Act,

b. limited period of time during which the commission of three significant violations, or the commission of a greater number of lesser violations, will result in the administrative action. The limited period of time shall not be less than two (2) years,

c. duration of the registration revocation, and

d. conditions under which the person whose registration is revoked may reapply for another registration pursuant to the Oklahoma Registered Poultry Feeding Operations Act.

C. For the performance of its duties and responsibilities, the Board is authorized to employ such personnel and agents as may be required within the funds available.

SECTION 3. REPEALER 2 O.S. 2011, Sections 18-43.1, 18-43.2, 18-43.3 and 18-43.4, are hereby repealed.

SECTION 4. REPEALER 18 O.S. 2011, Section 381.5a, is hereby repealed.

SECTION 5. AMENDATORY 27A O.S. 2011, Section 1-1-202, is amended to read as follows:

Section 1-1-202. A. Each state environmental agency shall:

1. Be responsible for fully implementing and enforcing the laws and rules within its jurisdictional areas of environmental responsibility;

2. Utilize and enforce the Oklahoma Water Quality Standards established by the Oklahoma Water Resources Board;

3. Seek to strengthen relationships between state, regional, local and federal environmental planning, development and management programs;

4. Specifically facilitate cooperation across jurisdictional lines of authority with other state environmental agencies regarding programs to resolve environmental concerns;

5. Cooperate with all state environmental agencies, other state agencies and local or federal governmental entities to protect,

foster, and promote the general welfare, and the environment and natural resources of this state;

6. Have the authority to engage in environmental and natural resource information dissemination and education activities within their respective areas of environmental jurisdiction; and

7. Participate in every hearing conducted by the Oklahoma Water Resources Board for the consideration, adoption or amendment of the classification of waters of the state and standards of purity and quality thereof, and shall have the opportunity to present written comment to the members of the Oklahoma Water Resources Board at the same time staff recommendations are submitted to those members for Board review and consideration.

B. 1. In addition to the requirements of subsection A of this section, each state environmental agency shall have promulgated by July 1, 2001, a Water Quality Standards Implementation Plan for its jurisdictional areas of environmental responsibility in compliance with the Administrative Procedures Act and pursuant to the provisions of this section. Each agency shall review its plan at least every three (3) years thereafter to determine whether revisions to the plan are necessary.

2. Upon the request of any state environmental agency, the Oklahoma Water Resources Board shall provide consulting assistance to such agency in developing a Water Quality Standards Implementation Plan as required by this subsection.

3. Each Water Quality Standards Implementation Plan shall:

a. describe, generally, the processes, procedures and methodologies the state environmental agency will utilize to ensure that programs within its jurisdictional areas of environmental responsibility will comply with anti-degradation standards and lead to:

(1) maintenance of water quality where beneficial uses are supported,

(2) removal of threats to water quality where beneficial uses are in danger of not being supported, and

(3) restoration of water quality where beneficial uses are not being supported,

b. include the procedures to be utilized in the application of use support assessment protocols to make impairment determinations,

c. list and describe programs affecting water quality,

d. include technical information and procedures to be utilized in implementing the Water Quality Standards Implementation Plan,

e. describe the method by which the Water Quality Standards Implementation Plan will be integrated into the water quality management activities within the jurisdictional areas of environmental responsibility of the state environmental agency,

f. detail the manner in which the agency will comply with mandated statewide requirements affecting water quality developed by other state environmental agencies including, but not limited to, total maximum daily load development, water discharge permit activities and nonpoint source pollution prevention programs,

g. include a brief summary of the written comments and testimony received pursuant to all public meetings held or sponsored by the state environmental agency for the purpose of providing the public and other state environmental agencies an opportunity to comment on the plan, and

h. describe objective methods and means to evaluate the effectiveness of activities conducted pursuant to the Water Quality Standards Implementation Plan to achieve Water Quality Standards.

C. ~~1. There is hereby created a State Water Quality Standards Implementation Advisory Committee. The Committee shall consist of a designated representative of each of the state environmental agencies and the Secretary of the Environment. The Water Resources Board representative shall serve as chair of the Committee.~~

~~2. Prior to the publication of the notice of rulemaking intent for a Water Quality Standards Implementation Plan or amendment thereof, the environmental agency developing the plan shall submit the draft plan to the Water Quality Standards Implementation Advisory Committee for review. The Committee shall evaluate the extent to which the agency's Water Quality Standards Implementation Plan meets the requirements set out in this section and, to the extent necessary to achieve compliance with these requirements, shall provide detailed, written recommendations of provisions which should be incorporated into the agency's plan. A copy of such written recommendations shall also be submitted to the Speaker of the House of Representatives and the President Pro Tempore of the Senate.~~

~~D.~~ 1. Each state environmental agency with groundwater protection authority pursuant to Article III of the Oklahoma Environmental Quality Act shall be the groundwater protection agency for activities within its jurisdictional areas of environmental responsibility.

2. The Department of Environmental Quality shall cooperate with other state environmental agencies, as appropriate and necessary, in the protection of such unassigned activities.

3. Groundwater regulatory agencies shall develop groundwater protection practices to prevent groundwater contamination from activities within their respective jurisdictional areas of environmental responsibility.

4. Each groundwater protection agency shall promulgate such rules, and issue such permits, policies, directives or any other appropriate requirements, as necessary, to implement the requirements of this subsection.

5. Groundwater protection agencies shall take such action as may be necessary to assure that activities within their respective jurisdictional areas of environmental responsibility protect groundwater quality to support the uses of the state's water quality.

6. In addition, each groundwater protection agency with enforcement authority is hereby authorized to:

a. engage the voluntary cooperation of all persons in the maintenance and protection of groundwater, and to

advise, consult and cooperate with all persons, all agencies of the state, universities and colleges, the federal government or other states, and with interstate agencies in the furtherance of the purposes of this subsection, and to this end and for the purposes of studies, scientific or other investigations, research, experiments and demonstrations pertaining thereto, receive and spend funds as appropriated by the Legislature, and from such agencies and other officers and persons on behalf of the state,

b. encourage the formulation and execution of plans to maintain and protect groundwater by cooperative groups or associations of municipal corporations, industries, industrial users and other users of groundwaters of the state, who, jointly or severally, are or may be impacting on the maintenance and protection of groundwater,

c. encourage, participate in or conduct or cause to be conducted studies, scientific or other investigations, research, experiments and demonstrations relating to the maintenance and protection of groundwater, and to collect data with respect thereto, all as may be deemed advisable and necessary to carry out the purposes of this subsection, and to make reports and recommendations with respect thereto,

d. conduct groundwater sampling, data collection, analyses and evaluations with sufficient frequency to ascertain the characteristics and quality of groundwater and the sufficiency of the groundwater protection programs established pursuant to this subsection, and

e. develop a public education and promotion program to aid and assist in publicizing the need of, and securing support for, the maintenance and protection of groundwater.

~~E.~~ D. Each state environmental agency and each state agency with limited environmental responsibilities shall participate in the information management system developed by the Department of Environmental Quality, pursuant to Section ~~6~~ 1-4-107 of this ~~act~~

title, with such information as the Department shall reasonably request.

~~F.~~ E. In each even-numbered year, in cooperation with other state environmental agencies participating in the monitoring of water resources, the Oklahoma Water Resources Board shall provide a report on the status of water quality monitoring to the Legislature for review.

SECTION 6. AMENDATORY 27A O.S. 2011, Section 2-2-201, is amended to read as follows:

Section 2-2-201. A. There are hereby created:

1. The Water Quality Management Advisory Council;

2. The Hazardous Waste Management Advisory Council;

3. The Solid Waste Management Advisory Council; and

4. The Radiation Management Advisory Council~~; and~~

~~5. The Laboratory Services Advisory Council~~.

B. 1. Except as provided for in paragraph 2 of this subsection, each Council created pursuant to subsection A of this section shall consist of nine (9) members. Three members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. Appointments shall be for three-year terms. Members of the Advisory Councils shall serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Five members shall constitute a quorum.

2. a. The Solid Waste Management Advisory Council shall consist of ten (10) members. Four members shall be appointed by the Governor, three members shall be appointed by the Speaker of the House of Representatives and three members shall be appointed by the President Pro Tempore of the Senate. Appointments shall be for three-year terms. Members of the Solid Waste Management Advisory Council shall

serve at the pleasure of and may be removed from office by the appointing authority. Members shall continue to serve until their successors are appointed. Any vacancy shall be filled in the same manner as the original appointments. Six members shall constitute a quorum.

b. The Water Quality Management Advisory Council shall consist of twelve (12) members. Four members shall be appointed by the Governor, four members shall be appointed by the President Pro Tempore of the Senate, and four members shall be appointed by the Speaker of the House of Representatives. Appointments shall be for three-year terms. Members shall serve at the pleasure of and may be removed by the appointing authority. Members may be eligible for re-appointment and shall continue to serve until their successors are appointed. Vacancies shall be filled in the same manner as their original appointments. Seven members shall constitute a quorum.

3. Each Council shall elect a chair and a vice-chair from among its members. Each Council shall meet as required for rule development, review and recommendation and for such other purposes specified by law. Special meetings may be called by the chair or by the concurrence of any three ~~(3)~~ members.

C. 1. All members of the Water Quality Management Advisory Council shall be knowledgeable of water quality and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint ~~three~~ four members as follows:

(1) one member representing the field of engineering,

(2) one member representing a statewide nonprofit environmental organization, ~~and~~

(3) one member representing the general public, and

(4) one member representing a private laboratory certified by the Department,

b. the President Pro Tempore of the Senate shall appoint ~~three~~ four members as follows:

(1) one member representing an industry located in this state,

(2) one member representing an oil field-related industry, ~~and~~

(3) one member representing the field of geology, and

(4) one member who holds a certificate under the Waterworks and Wastewater Works Operator Certification Act and who is the operator of a municipal waterworks or wastewater works facility, and

c. the Speaker of the House of Representatives shall appoint ~~three~~ four members as follows:

(1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,

(2) one member representing a rural water district organized pursuant to the laws of this state, ~~and~~

(3) one member representing the field of agriculture, and

(4) one member who holds a certificate under the Waterworks and Wastewater Works Operator Certification Act and who is the operator of a waterworks or wastewater works for a rural water or sewer district organized pursuant to law.

2. The jurisdictional areas of the Water Quality Management Advisory Council shall include Article VI of this chapter, Article IV of this chapter, waterworks and wastewater activities, water quality and protection and related activities and such other areas as designated by the Board.

D. 1. All members of the Hazardous Waste Management Advisory Council shall be knowledgeable of hazardous waste and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

(1) one member representing an industry located in this state,

(2) one member representing a statewide nonprofit environmental organization, and

(3) one member representing a political subdivision of the state who shall be a member of the local governing body of a city or town,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

(1) one member representing a political subdivision of the state who shall be a member of the local governmental body of a city or town,

(2) one member representing the general public, and

(3) one member representing industry generating hazardous waste, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

(1) one member representing the field of engineering,

(2) one member representing the hazardous waste industry, and

(3) one member representing the field of geology.

2. The jurisdictional areas of the Hazardous Waste Management Advisory Council shall include Article VII of this chapter, the Oklahoma Hazardous Waste Reduction Program, and such other areas as designated by the Board.

E. 1. All members of the Solid Waste Management Advisory Council shall be knowledgeable of solid waste and of the environment. The Council shall be composed as follows:

a. the Governor shall appoint four members as follows:

(1) one member representing a statewide nonprofit environmental organization,

(2) one member shall be a county commissioner,

(3) one member representing the general public, and

(4) one member representing the solid waste incineration, waste-to-energy industry in this state,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

(1) one member representing an industry located in this state generating solid waste,

(2) one member representing a political subdivision of this state who shall be a member of the local governmental body of a city or town, and

(3) one member representing the field of geology, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

(1) one member representing the solid waste disposal industry in this state,

(2) one member representing the field of engineering, and

(3) one member representing the transportation industry.

2. The jurisdictional areas of the Solid Waste Management Advisory Council shall include Article X of this chapter, the Oklahoma Used Tire Recycling Act and such other areas as designated by the Board.

F. 1. All members of the Radiation Management Advisory Council shall be knowledgeable of radiation hazards and radiation protection. The Council shall be composed as follows:

a. the Governor shall appoint three members as follows:

(1) one member representing an industry located in this state which uses sources of radiation in its manufacturing or processing business,

(2) one member representing a statewide nonprofit environmental organization, and

(3) one member representing the engineering profession who shall be a professional engineer employed and experienced in matters of radiation management and protection,

b. the President Pro Tempore of the Senate shall appoint three members as follows:

(1) one member representing the faculty of an institution of higher learning of university status and shall be experienced in matters of scientific knowledge and competent in matters of radiation management and protection,

(2) one member representing the general public, and

(3) one member representing the field of industrial radiography, and

c. the Speaker of the House of Representatives shall appoint three members as follows:

(1) one member representing the transportation industry,

(2) one member representing the petroleum industry who is trained and experienced in radiation management and protection, and

(3) one member representing a medical institution within this state who shall be experienced in matters of radiation management and protection.

2. The jurisdictional areas of the Radiation Management Advisory Council shall include Article IX of this chapter and such other areas as designated by the Board.

G. ~~1. All members of the Laboratory Services Advisory Council shall be knowledgeable of laboratory services and certification standards. The Council shall be composed as follows:~~

~~a. the Governor shall appoint three members as follows:~~

~~(1) one member representing a private laboratory within the state certified by the Department,~~

~~(2) one member representing the field of hydro-geology, and~~

~~(3) one member representing permit holders required to routinely submit laboratory analyses results to the Department,~~

~~b. the President Pro Tempore of the Senate shall appoint three members as follows:~~

~~(1) one member representing a private laboratory within the state certified by the Department,~~

~~(2) one member representing a public laboratory within the state certified by the Department, and~~

~~(3) one member representing the field of microbiology, and~~

~~c. the Speaker of the House of Representatives shall appoint three members as follows:~~

~~(1) one member representing a private laboratory within the state certified by the Department,~~

~~(2) one member representing permit holders required to routinely submit laboratory analyses results to the Department, and~~

~~(3) one member representing the field of environmental chemistry.~~

~~2. The jurisdictional areas of the Laboratory Services Advisory Council shall include Article IV of this chapter and such other areas designated by the Board.~~

~~H.~~ 1. The Air Quality Council created pursuant to Section 6, Chapter 215, O.S.L. 1992 (63 O.S. Supp. 1992, Section 1-1807.1) shall remain in effect as the Air Quality Advisory Council and carry on the powers and duties assigned to it by law. Future appointments to the Council shall be made according to the provisions of this section.

2. The Council shall consist of nine (9) members who shall be residents of this state and appointed by the Governor with the advice and consent of the Senate.

3. Members of the Council shall have the qualifications as follows:

a. one member shall be selected from the engineering profession, and, as such, shall be a professional engineer and experienced in matters of air pollution equipment and control, who shall not be an employee of any unit of government,

b. one member shall be selected from industry in general, and, as such, shall be employed as a manufacturing executive carrying on a manufacturing business within this state,

c. one member shall be selected from a faculty of an institution of higher learning of university status and shall be experienced in matters of scientific knowledge and competent in matters of air pollution control and evaluation,

d. one member shall be selected from the transportation industry,

e. one member shall be selected from the petroleum industry, and, as such, shall be employed by a petroleum company carrying on a petroleum refining business within the state, and, as such, shall be trained and experienced in matters of scientific knowledge of causes as well as effects of air pollution,

f. one member shall be selected from agriculture, and, as such, shall be engaged in or employed by a basic

agricultural business or the processing of agricultural products,

g. one member shall be selected from the political subdivisions of the state, and, as such, shall be a member of the local government body of a city or town,

h. one member, whose first term shall expire on June 15, 1998, shall be selected from the general public, and

i. one member, whose first term shall expire on June 15, 1999, shall be selected from the electric utilities industry, and as such, shall be knowledgeable in matters of air pollution and control.

4. Each member shall be appointed to serve a term of office of seven (7) years.

The terms of all members shall be deemed to have expired on June 15th of the year of expiration, and shall continue until successors have been duly appointed and qualified. If a vacancy occurs, the Governor shall appoint a person for the remaining portion of the unexpired term created by the vacancy. Five members of the Council shall constitute a quorum.

5. The Council shall hold at least two regular meetings each calendar year at a place and time to be fixed by the Council. The Council shall select one of its members to serve as chair and another of its members to serve as vice-chair at the first regular meeting in each calendar year to serve as the chair and vice-chair for the ensuing year. Special meetings may be called, and any meeting may be canceled, by the chair, or by three members of the Council by delivery of written notice to each member of the Council.

6. The jurisdictional areas of the Air Quality Council shall include Article V of this chapter and such other areas as designated by the Board.

~~I.~~ H. In addition to other powers and duties assigned to each Council pursuant to this Code, each Council shall, within its jurisdictional area:

1. Have authority to recommend to the Board rules on behalf of the Department. The Department shall not have standing to recommend to the Board permanent rules or changes to such rules within the

jurisdiction of a Council which have not previously been submitted to the appropriate Council for action;

2. Before recommending any permanent rules to the Board, give public notice, offer opportunity for public comment and conduct a public rulemaking hearing when required by the Administrative Procedures Act;

3. Have the authority to make written recommendations to the Board which have been concurred upon by at least a majority of the membership of the Council;

4. Have the authority to provide a public forum for the discussion of issues it considers relevant to its area of jurisdiction, and to:

a. pass nonbinding resolutions expressing the sense of the Council, and

b. make recommendations to the Board or Department concerning the need and the desirability of conducting meetings, workshops and seminars; and

5. Cooperate with each other Council, the public, the Board and the Executive Director in order to coordinate the rules within their respective jurisdictional areas and to achieve maximum efficiency and effectiveness in furthering the objectives of the Department.

~~J.~~ I. The Councils shall not recommend rules for promulgation by the Environmental Quality Board unless all applicable requirements of the Administrative Procedures Act have been followed, including but not limited to notice, rule impact statement and rule-making hearings.

~~K.~~ J. Members of the Councils shall serve without compensation but may be reimbursed expenses incurred in the performance of their duties, as provided in the State Travel Reimbursement Act. The Councils are authorized to utilize the conference rooms of the Department of Environmental Quality and obtain administrative assistance from the Department, as required.

SECTION 7. REPEALER 36 O.S. 2011, Section 2211, is hereby repealed.

SECTION 8. REPEALER 53 O.S. 2011, Section 7.3, is hereby repealed.

SECTION 9. AMENDATORY 53 O.S. 2011, Section 400, is amended to read as follows:

Section 400. The Oklahoma American Civil War Sesquicentennial Commission is hereby created, to continue to July 1, 2015, in accordance with the provisions of the Oklahoma Sunset Law, to assist the Oklahoma Historical Society and the Oklahoma History Center in preparing for and commemorating the sesquicentennial of Oklahoma's participation in the American Civil War.

SECTION 10. AMENDATORY 53 O.S. 2011, Section 402, is amended to read as follows:

Section 402. A. The Oklahoma American Civil War Sesquicentennial Commission shall consist of twelve (12) members as follows:

1. Four members appointed by the Governor;

2. Four members appointed by the President Pro Tempore of the Senate; and

3. Four members appointed by the Speaker of the House of Representatives.

B. There is hereby created an advisory council to the Commission, to continue to July 1, 2015, in accordance with the provisions of the Oklahoma Sunset Law, to be composed of:

a. the Director of the Oklahoma History Center or designee,

b. the Executive Director of the Oklahoma Tourism and Recreation Department or designee,

c. the President of the Oklahoma Historical Society or designee,

d. the Director of the Native American Cultural and Educational Authority of Oklahoma or designee,

e. the President of the Oklahoma County Civil War Roundtable or designee,

f. the President of the Tulsa County Civil War Roundtable or designee,

g. the Superintendent of the Honey Springs Battlefield or designee,

h. the Curator of the Confederate Memorial Hall or designee, and

i. the Curator of the Union Memorial Hall, or designee.

C. The members of the Commission shall serve at the pleasure of the appointing authority.

D. The Commission shall elect a chair and vice-chair from among its membership.

E. A quorum of the Commission shall be required in order for any final action of the Commission.

F. Members of the Commission shall receive no compensation for their service, but shall receive travel reimbursement as follows:

1. Legislative members of the Commission shall be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the provisions of Section 456 of Title 74 of the Oklahoma Statutes; and

2. Nonlegislative members of the Commission shall be reimbursed for necessary travel expenses incurred in the performance of their duties in accordance with the State Travel Reimbursement Act.

G. The Oklahoma Historical Society shall provide staff support to the Commission.

H. The Commission shall submit to the Legislature an annual report, including any legislative findings to the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor by January 1 of each year.

SECTION 11. REPEALER 57 O.S. 2011, Section 508.2c, as amended by Section 244, Chapter 304, O.S.L. 2012 (57 O.S. Supp. 2012, Section 508.2c), is hereby repealed.

SECTION 12. REPEALER 59 O.S. 2011, Section 1103, as amended by Section 1, Chapter 55, O.S.L. 2012 (59 O.S. Supp. 2012, Section 1103), is hereby repealed.

SECTION 13. REPEALER 60 O.S. 2011, Sections 180.51, 180.52, 180.53, 180.54 and 180.55, are hereby repealed.

SECTION 14. AMENDATORY 62 O.S. 2011, Section 35.8, as last amended by Section 64 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 35.8 A. Notwithstanding any other provision of law, the provisions of the Information Technology Consolidation and Coordination Act shall operate to maintain or increase security standards and shall not jeopardize confidentiality or compliance with state or federal laws or regulations. The State Governmental Technology Applications Review Board~~, with the advice of the Oklahoma Integrated Justice Information Systems Steering Committee,~~ shall consider and approve security protocols which shall be followed by the Information Services Division of the Office of Management and Enterprise Services. The Board~~, in conjunction with the Committee,~~ shall make recommendations to state officers and employees related to continuity of criminal justice information system security protocols.

B. Notwithstanding the provisions of Section 35.5 of this title, the transfer of information technology assets and positions of the Department of Public Safety shall occur prior to the transfer of assets and positions of other public safety agencies.

C. Unless otherwise provided for in law, the transfer of information technology assets and positions of any state agency pursuant to the Information Technology Consolidation and Coordination Act shall not act to transfer to the Information Services Division of the Office of Management and Enterprise Services or to the Chief Information Officer the duties of a state agency to keep, maintain and open to any person all records of the agency in compliance with the Oklahoma Open Records Act. Each state agency shall continue to be responsible for records created by, received by, under the authority of, or coming into the custody,

control or possession of the agency including the duty to organize and categorize the records in a retrievable form and the duty to respond to requests for records, even if the records have been transmitted to or stored by the Information Services Division of the Office of Management and Enterprise Services or the Chief Information Officer.

D. State employees who are members of the Teachers' Retirement System of Oklahoma and are transferred pursuant to the Information Technology Consolidation and Coordination Act may elect to continue their participation in the Teachers' Retirement System of Oklahoma in lieu of participating in the Oklahoma Public Employees Retirement System. Any transferred employee who wishes to make such election shall do so in writing within thirty (30) days of the effective date of this act. If any transferred employee has already started participating in the Oklahoma Public Employees Retirement System, the employee may make an election to return to the Teachers' Retirement System of Oklahoma if the election is made in writing within thirty (30) days of the effective date of this act. In the event a transferred employee who has already begun participating in the Oklahoma Public Employees Retirement System elects to return to the Teachers' Retirement System of Oklahoma, the Oklahoma Public Employees Retirement System shall transfer the service credit and contributions to the Teachers' Retirement System of Oklahoma for any credit that accrued after the initial transfer. The election to continue or return to participation in the Teachers' Retirement System of Oklahoma pursuant to this subsection shall be irrevocable and shall be effective until the employment with the Office of Management and Enterprise Services is terminated.

SECTION 15. AMENDATORY 63 O.S. 2011, Section 683.6, is amended to read as follows:

Section 683.6 A. ~~There is hereby created an Emergency Management Advisory Council. The members of the Council shall be composed of the Governor, who shall serve as chair of the Council, and the following department heads:~~

~~1. The Director of the Oklahoma Department of Emergency Management;~~

~~2. The Commissioner of Public Safety;~~

~~3. The Adjutant General;~~

~~4. The State Commissioner of Health;~~

~~5. The Commissioner of the Oklahoma Department of Agriculture, Food, and Forestry;~~

~~6. The Director of the Department of Human Services;~~

~~7. The Director of the Department of Transportation;~~

~~8. The Director of the Oklahoma Water Resources Board;~~

~~9. The State Fire Marshal;~~

~~10. The Department of Environmental Quality;~~

~~11. The Oklahoma Sheriffs' Association; and~~

~~12. The Director of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,~~

~~who shall serve without additional compensation.~~

~~B. The Council shall advise the Governor and the Director on all matters pertaining to emergency management.~~

~~C. 1.~~ There is hereby created the State Hazard Mitigation Team, composed of the administrative heads of the following agencies or their designees:

~~a.~~

1. Oklahoma Department of Emergency Management, who shall serve as the Team Coordinator~~,~~;

~~b.~~

2. Oklahoma Water Resources Board~~,~~;

~~c.~~

3. Oklahoma Climatological Survey~~,~~;

~~d.~~

4. Oklahoma Conservation Commission~~,~~;

~~e.~~

5. Corporation Commission~~,~~;

~~f.~~

6. Oklahoma Department of Commerce~~,~~;

~~g.~~

7. Department of Environmental Quality~~,~~;

~~h.~~

8. Department of Human Services~~,~~;

~~i.~~

9. State Department of Health~~,~~;

~~j.~~

10. Department of Transportation~~,~~;

~~k.~~

11. Oklahoma Department of Agriculture, Food, and Forestry or the Secretary of ~~the Oklahoma Department of~~ Agriculture~~, Food, and Forestry,~~;

~~l.~~

12. Department of Wildlife Conservation~~,~~;

~~m.~~

13. Oklahoma Historical Society~~,~~;

~~n.~~

14. Oklahoma Insurance Department~~,~~;

~~o.~~

15. Association of County Commissioners of Oklahoma~~,~~;

~~p.~~

16. Oklahoma Municipal League~~,~~;

~~q.~~

17. State Fire Marshal~~,~~;

~~r.~~

18. Department of Labor~~,~~;

~~s.~~ ~~a~~

19. A local Emergency Management Director as determined by the President of the Oklahoma Emergency Management Association~~,~~;

~~t.~~

20. State Chancellor or his or her representative for The Oklahoma State System of Higher Education~~,~~; and

~~u.~~

21. State Director or his or her representative for the Oklahoma Department of Career and Technology Education.

~~2.~~ B. Depending on the circumstances, the Team Coordinator may request participation of the heads of any other state agencies as deemed appropriate.

~~3.~~ C. The Team Coordinator shall also request that a representative of the United States Army Corps of Engineers be appointed by the administrative head of the Tulsa District to participate on the Team.

~~4.~~ D. The Team Coordinator shall also request a representative of the U.S. Department of Housing and Urban Development be appointed by the administrative head of the Oklahoma City office to participate on the team.

~~5.~~ E. The State Hazard Mitigation Team will meet as determined by the Team Coordinator to review and recommend updates to the State

Comprehensive All-hazard Mitigation Plan, and shall have those additional responsibilities as provided by the Team Coordinator, including, but not limited to, the review and recommendation for loan and grant application under the Oklahoma Flood Hazard Mitigation Program.

SECTION 16. AMENDATORY 63 O.S. 2011, Section 683.26, is amended to read as follows:

Section 683.26 ~~Within the~~ The Oklahoma Department of Emergency Management~~, there is hereby created the Oklahoma Office of Volunteerism for the purpose of developing, promoting and supporting emergency management volunteerism in the State of Oklahoma. The Oklahoma Office of Volunteerism~~ shall ~~support~~:

1. Support voluntary involvement in public and private emergency management programs to meet the needs of the citizens of the State of Oklahoma~~, to stimulate~~;

2. Stimulate new voluntary emergency management initiatives and partnerships~~, and to serve~~; and

3. Serve as a resource and advocate within the State of Oklahoma for volunteer agencies, volunteers and programs which utilize volunteers to support emergency response and disaster recovery operations.

SECTION 17. AMENDATORY 63 O.S. 2011, Section 683.28, is amended to read as follows:

Section 683.28 ~~A.~~ The ~~Oklahoma Office of Volunteerism shall be subject to the authority and direction of the Director of the~~ Oklahoma Department of Emergency Management~~.~~

~~B. The Oklahoma Office of Volunteerism~~, in cooperation with governmental entities, individual volunteers and volunteer organizations throughout the State of Oklahoma, shall:

1. Assist all state agencies in the development of emergency management volunteer programs;

2. Operate as a statewide information center for volunteer programs and needed services that could be delivered by volunteer programs;

3. Provide or aid in the provision of technical assistance and training for directors and coordinators of volunteers, for staff, and for individual volunteers for state, local or private entities;

4. Assess and recognize the needs of communities throughout the State of Oklahoma and assist volunteer programs to meet emergency preparedness and disaster recovery programs;

5. Promote and coordinate efforts to expand and improve the statewide voluntary network;

6. Develop, implement and maintain a volunteer clearinghouse to disseminate information to support emergency management volunteer programs and to broaden voluntary involvement throughout the State of Oklahoma;

7. Promote communication and collaboration between public and private volunteer programs in the State of Oklahoma and between the public and private sector's initiatives in meeting emergency human needs;

8. Establish methods for supporting and promoting private sector leadership and responsibility for meeting emergency public needs;

9. Cooperate with federal, state, and local volunteer groups in collecting information on federal, state and private resources which may encourage and improve emergency management volunteer projects within the State of Oklahoma;

10. Develop a program to inform the public of the opportunities to volunteer and of the services emergency management volunteers provide within the State of Oklahoma; and

11. Cooperate with federal, state and local governments and voluntary groups in developing a plan and operational procedures for the receiving and disbursement of donated goods during times of disaster or emergency.

SECTION 18. REPEALER 63 O.S. 2011, Sections 683.27, as amended by Section 507, Chapter 304, O.S.L. 2012, 683.30 and 683.31 (63 O.S. Supp. 2012, Section 683.27), are hereby repealed.

SECTION 19. REPEALER 66 O.S. 2011, Section 323.1, is hereby repealed.

SECTION 20. AMENDATORY 68 O.S. 2011, Section 205, is amended to read as follows:

Section 205. A. The records and files of the Oklahoma Tax Commission concerning the administration of the Uniform Tax Procedure Code or of any state tax law shall be considered confidential and privileged, except as otherwise provided for by law, and neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files nor any person who may have secured information from the Tax Commission shall disclose any information obtained from the records or files or from any examination or inspection of the premises or property of any person.

B. Except as provided in paragraph 26 of subsection C of this section, neither the Tax Commission nor any employee engaged in the administration of the Tax Commission or charged with the custody of any such records or files shall be required by any court of this state to produce any of the records or files for the inspection of any person or for use in any action or proceeding, except when the records or files or the facts shown thereby are directly involved in an action or proceeding pursuant to the provisions of the Uniform Tax Procedure Code or of the state tax law, or when the determination of the action or proceeding will affect the validity or the amount of the claim of the state pursuant to any state tax law, or when the information contained in the records or files constitutes evidence of violation of the provisions of the Uniform Tax Procedure Code or of any state tax law.

C. The provisions of this section shall not prevent the Tax Commission from disclosing the following information and no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission in the disclosure of such information:

1. The delivery to a taxpayer or a duly authorized representative of the taxpayer of a copy of any report or any other paper filed by the taxpayer pursuant to the provisions of the Uniform Tax Procedure Code or of any state tax law;

2. The exchange of information that is not protected by the federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq., pursuant to reciprocal agreements entered into by the Tax Commission and other state agencies or agencies of the federal government;

3. The publication of statistics so classified as to prevent the identification of a particular report and the items thereof;

4. The examination of records and files by the State Auditor and Inspector or the duly authorized agents of the State Auditor and Inspector;

5. The disclosing of information or evidence to the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent of any federal law enforcement agency when the information or evidence is to be used by such officials to investigate or prosecute violations of the criminal provisions of the Uniform Tax Procedure Code or of any state tax law or of any federal crime committed against this state. Any information disclosed to the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, any district attorney, or agent of any federal law enforcement agency shall be kept confidential by such person and not be disclosed except when presented to a court in a prosecution for violation of the tax laws of this state or except as specifically authorized by law, and a violation by the Oklahoma State Bureau of Investigation, Attorney General, Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, district attorney, or agent of any federal law enforcement agency by otherwise releasing the information shall be a felony;

6. The use by any division of the Tax Commission of any information or evidence in the possession of or contained in any report or return filed with any other division of the Tax Commission;

7. The furnishing, at the discretion of the Tax Commission, of any information disclosed by its records or files to any official person or body of this state, any other state, the United States, or foreign country who is concerned with the administration or assessment of any similar tax in this state, any other state or the United States. The provisions of this paragraph shall include the furnishing of information by the Tax Commission to a county assessor to determine the amount of gross household income pursuant to the provisions of Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The Tax Commission shall promulgate rules to give guidance to the county assessors regarding the type of information which may be used by the county assessors in determining

the amount of gross household income pursuant to Section 8C of Article X of the Oklahoma Constitution or Section 2890 of this title. The provisions of this paragraph shall also include the furnishing of information to the State Treasurer for the purpose of administration of the Uniform Unclaimed Property Act;

8. The furnishing of information to other state agencies for the limited purpose of aiding in the collection of debts owed by individuals to such requesting agencies;

9. The furnishing of information requested by any member of the general public and stated in the sworn lists or schedules of taxable property of public service corporations organized, existing, or doing business in this state which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2858 of this title and Section 21 of Article X of the Oklahoma Constitution, provided such information would be a public record if filed pursuant to Sections 2838 and 2839 of this title on behalf of a corporation other than a public service corporation;

10. The furnishing of information requested by any member of the general public and stated in the findings of the Tax Commission as to the adjustment and equalization of the valuation of real and personal property of the counties of the state, which are submitted to and certified by the State Board of Equalization pursuant to the provisions of Section 2865 of this title and Section 21 of Article X of the Oklahoma Constitution;

11. The furnishing of information to an Oklahoma wholesaler of low-point beer, licensed under the provisions of Section 163.1 et seq. of Title 37 of the Oklahoma Statutes, or an association or organization whose membership is comprised of such wholesalers, of the licensed retailers authorized by law to purchase low-point beer in this state or the furnishing of information to a licensed Oklahoma wholesaler of low-point beer of shipments by licensed manufacturers into this state;

12. The furnishing of information as to the issuance or revocation of any tax permit, license or exemption by the Tax Commission as provided for by law. Such information shall be limited to the name of the person issued the permit, license or exemption, the name of the business entity authorized to engage in business pursuant to the permit, license or exemption, the address of the business entity, and the grounds for revocation;

13. The posting of notice of revocation of any tax permit or license upon the premises of the place of business of any business entity which has had any tax permit or license revoked by the Tax Commission as provided for by law. Such notice shall be limited to the name of the person issued the permit or license, the name of the business entity authorized to engage in business pursuant to the permit or license, the address of the business entity, and the grounds for revocation;

14. The furnishing of information upon written request by any member of the general public as to the outstanding and unpaid amount due and owing by any taxpayer of this state for any delinquent tax, together with penalty and interest, for which a tax warrant or a certificate of indebtedness has been filed pursuant to law;

15. After the filing of a tax warrant pursuant to law, the furnishing of information upon written request by any member of the general public as to any agreement entered into by the Tax Commission concerning a compromise of tax liability for an amount less than the amount of tax liability stated on such warrant;

16. The disclosure of information necessary to complete the performance of any contract authorized by this title to any person with whom the Tax Commission has contracted;

17. The disclosure of information to any person for a purpose as authorized by the taxpayer pursuant to a waiver of confidentiality. The waiver shall be in writing and shall be made upon such form as the Tax Commission may prescribe;

18. The disclosure of information required in order to comply with the provisions of Section 2369 of this title;

19. The disclosure to an employer, as defined in Sections 2385.1 and 2385.3 of this title, of information required in order to collect the tax imposed by Section 2385.2 of this title;

20. The disclosure to a plaintiff of a corporation's last-known address shown on the records of the Franchise Tax Division of the Tax Commission in order for such plaintiff to comply with the requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

21. The disclosure of information directly involved in the resolution of the protest by a taxpayer to an assessment of tax or additional tax or the resolution of a claim for refund filed by a

taxpayer, including the disclosure of the pendency of an administrative proceeding involving such protest or claim, to a person called by the Tax Commission as an expert witness or as a witness whose area of knowledge or expertise specifically addresses the issue addressed in the protest or claim for refund. Such disclosure to a witness shall be limited to information pertaining to the specific knowledge of that witness as to the transaction or relationship between taxpayer and witness;

22. The disclosure of information necessary to implement an agreement authorized by Section 2702 of this title when such information is directly involved in the resolution of issues arising out of the enforcement of a municipal sales tax ordinance. Such disclosure shall be to the governing body or to the municipal attorney, if so designated by the governing body;

23. The furnishing of information regarding incentive payments made pursuant to the provisions of Sections 3601 through 3609 of this title or incentive payments made pursuant to the provisions of Sections 3501 through 3508 of this title;

24. The furnishing to a prospective purchaser of any business, or his or her authorized representative, of information relating to any liabilities, delinquencies, assessments or warrants of the prospective seller of the business which have not been filed of record, established, or become final and which relate solely to the seller's business. Any disclosure under this paragraph shall only be allowed upon the presentment by the prospective buyer, or the buyer's authorized representative, of the purchase contract and a written authorization between the parties;

25. The furnishing of information as to the amount of state revenue affected by the issuance or granting of any tax permit, license, exemption, deduction, credit or other tax preference by the Tax Commission as provided for by law. Such information shall be limited to the type of permit, license, exemption, deduction, credit or other tax preference issued or granted, the date and duration of such permit, license, exemption, deduction, credit or other tax preference and the amount of such revenue. The provisions of this paragraph shall not authorize the disclosure of the name of the person issued such permit, license, exemption, deduction, credit or other tax preference, or the name of the business entity authorized to engage in business pursuant to the permit, license, exemption, deduction, credit or other tax preference;

26. The examination of records and files of a person or entity by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control pursuant to a court order by a magistrate in whose territorial jurisdiction the person or entity resides, or where the Tax Commission records and files are physically located. Such an order may only be issued upon a sworn application by an agent of the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control, certifying that the person or entity whose records and files are to be examined is the target of an ongoing investigation of a felony violation of the Uniform Controlled Dangerous Substances Act and that information resulting from such an examination would likely be relevant to that investigation. Any records or information obtained pursuant to such an order may only be used by the Oklahoma State Bureau of Narcotics and Dangerous Drugs Control in the investigation and prosecution of a felony violation of the Uniform Controlled Dangerous Substances Act. Any such order issued pursuant to this paragraph, along with the underlying application, shall be sealed and not disclosed to the person or entity whose records were examined, for a period of ninety (90) days. The issuing magistrate may grant extensions of such period upon a showing of good cause in furtherance of the investigation. Upon the expiration of ninety (90) days and any extensions granted by the magistrate, a copy of the application and order shall be served upon the person or entity whose records were examined, along with a copy of the records or information actually provided by the Tax Commission;

27. The disclosure of information, as prescribed by this paragraph, which is related to the proposed or actual usage of tax credits pursuant to Section 2357.7 of this title, the Small Business Capital Formation Incentive Act or the Rural Venture Capital Formation Incentive Act. Unless the context clearly requires otherwise, the terms used in this paragraph shall have the same meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this title. The disclosure of information authorized by this paragraph shall include:

a. the legal name of any qualified venture capital company, qualified small business capital company, or qualified rural small business capital company,

b. the identity or legal name of any person or entity that is a shareholder or partner of a qualified venture capital company, qualified small business capital company, or qualified rural small business capital company,

c. the identity or legal name of any Oklahoma business venture, Oklahoma small business venture, or Oklahoma rural small business venture in which a qualified investment has been made by a capital company, or

d. the amount of funds invested in a qualified venture capital company, the amount of qualified investments in a qualified small business capital company or qualified rural small business capital company and the amount of investments made by a qualified venture capital company, qualified small business capital company, or qualified rural small business capital company;

28. The disclosure of specific information as required by Section 46 of Title 62 of the Oklahoma Statutes;

29. The disclosure of specific information as required by Section 205.5 of this title; or

30. The disclosure of specific information as required by Section ~~3~~ 205.6 of this ~~act~~ title.

D. The Tax Commission shall cause to be prepared and made available for public inspection in the office of the Tax Commission in such manner as it may determine an annual list containing the name and post office address of each person, whether individual, corporate, or otherwise, making and filing an income tax return with the Tax Commission.

It is specifically provided that no liability whatsoever, civil or criminal, shall attach to any member of the Tax Commission or any employee thereof for any error or omission of any name or address in the preparation and publication of the list.

E. The Tax Commission shall prepare or cause to be prepared a report on all provisions of state tax law that reduce state revenue through exclusions, deductions, credits, exemptions, deferrals or other preferential tax treatments. The report shall be prepared not later than October 1 of each even-numbered year and shall be submitted to the Governor, the President Pro Tempore of the Senate and the Speaker of the House of Representatives. The Tax Commission may prepare and submit supplements to the report at other times of the year if additional or updated information relevant to the report

becomes available. The report shall include, for the previous fiscal year, the Tax Commission's best estimate of the amount of state revenue that would have been collected but for the existence of each such exclusion, deduction, credit, exemption, deferral or other preferential tax treatment allowed by law. The Tax Commission may request the assistance of other state agencies as may be needed to prepare the report. The Tax Commission is authorized to require any recipient of a tax incentive or tax expenditure to report to the Tax Commission such information as requested so that the Tax Commission may ~~provide the information to the Incentive Review Committee or~~ fulfill its obligations as required by this subsection. The Tax Commission may require this information to be submitted in an electronic format. The Tax Commission may disallow any claim of a person for a tax incentive due to its failure to file a report as required under the authority of this subsection. ~~The Tax Commission may consult with the Incentive Review Committee to develop a reporting system to obtain the information requested in a manner that is the least burdensome on the taxpayer.~~

F. It is further provided that the provisions of this section shall be strictly interpreted and shall not be construed as permitting the disclosure of any other information contained in the records and files of the Tax Commission relating to income tax or to any other taxes.

G. Unless otherwise provided for in this section, any violation of the provisions of this section shall constitute a misdemeanor and shall be punishable by the imposition of a fine not exceeding One Thousand Dollars ($1,000.00) or by imprisonment in the county jail for a term not exceeding one (1) year, or by both such fine and imprisonment, and the offender shall be removed or dismissed from office.

H. Offenses described in Section 2376 of this title shall be reported to the appropriate district attorney of this state by the Tax Commission as soon as the offenses are discovered by the Tax Commission or its agents or employees. The Tax Commission shall make available to the appropriate district attorney or to the authorized agent of the district attorney its records and files pertinent to prosecutions, and such records and files shall be fully admissible as evidence for the purpose of such prosecutions.

SECTION 21. REPEALER 68 O.S. 2011, Section 205.4, is hereby repealed.

SECTION 22. REPEALER 68 O.S. 2011, Sections 1354.12 and 1354.13, are hereby repealed.

SECTION 23. AMENDATORY 68 O.S. 2011, Section 3603, as last amended by Section 88 of Enrolled Senate Bill No. 977 of the 1st Session of the 54th Oklahoma Legislature, is amended to read as follows:

Section 3603. A. As used in Section 3601 et seq. of this title:

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 Section 3601 et seq. of this title 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 No. 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 No. 112120,

(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, and

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

(10) those activities related to extraction of crude petroleum and natural gas defined or classified in the NAICS Manual under Industry Group No. 2111 or 213111, 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 ~~State Data Center~~ 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 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 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~~.~~;

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 Section 3601 et seq. of this title 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 ~~State Data Center~~ 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, and

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.

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 Section 3601 et seq. of this title, 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; and

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.

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:

1. Upon initial application on a form approved by the Committee, if an establishment is engaged in a basic industry as defined in subdivision (b) of division (7) or in subdivisions (a) through (n) of division (9) of subparagraph a of paragraph 1 of subsection A of this section or as otherwise provided by subsection C of this section;

2. If an establishment would have been defined as a "basic industry" prior to the amendments to this section to convert from SIC Codes to NAICS Codes. If the Committee so determines, the establishment shall be considered as a "basic industry" for purposes of the Oklahoma Quality Jobs Program Act; and

3. If employees of an establishment as defined in division (10) of subparagraph a of paragraph 1 of subsection A of this section meet the requirements to be considered employed in new direct jobs as specified in paragraph 3 of subsection A of this section.

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.

SECTION 24. AMENDATORY 68 O.S. 2011, Section 3604, is amended to read as follows:

Section 3604. A. Except as otherwise provided in subsection I 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 ~~Oklahoma State Data Center~~ 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 ~~Oklahoma State Data Center~~ 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.

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.

SECTION 25. AMENDATORY 68 O.S. 2011, Section 3604.1, is amended to read as follows:

Section 3604.1 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 ~~Oklahoma State Data Center~~ 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 ~~Oklahoma State Data Center~~ 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 indentified within the current Department of Commerce Quality Jobs contract.

SECTION 26. AMENDATORY 68 O.S. 2011, Section 3607, is amended to read as follows:

Section 3607. 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 ~~Oklahoma State Data Center~~ 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.

SECTION 27. AMENDATORY 68 O.S. 2011, Section 3903, is amended to read as follows:

Section 3903. As used in the Small Employer Quality Jobs Incentive Act:

1. "Basic industry" means a basic industry as defined under the Oklahoma Quality Jobs Program Act in divisions (1) through (9) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title, excluding those activities described in division (10) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title. Provided, for the purposes of the Small Employer Quality Jobs Incentive Act, the determination required by subdivision (b) of division (7) or division (8) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title shall be made by the Oklahoma Department of Commerce and not the Incentive Approval Committee;

2. "Establishment" means any business, no matter what legal form, including, but not limited to, a sole proprietorship, partnership, corporation, or limited liability corporation located in a county with a population of not more than two hundred thousand (200,000) persons, as determined by the ~~Oklahoma State Data Center~~ Department of Commerce based on the most recent U.S. Department of Commerce data or located in an "opportunity zone"; provided, a business classified as research and development in the physical, engineering and life sciences as described under U.S. Industry Number 541710 or classified as a testing laboratory as described under U.S. Industry Number 541380 in the North American Industry Classification System (NAICS) Manual shall be considered to be an establishment for purposes of the Small Employer Quality Jobs Incentive Act regardless of the population of the county in which the establishment is located. As used in this paragraph, "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;

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

4. "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;

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

6. "Full-time employment" means employment of persons residing in this state and working for thirty (30) hours per week or more in this state, which has a minimum six-month duration during any twelve-month period;

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

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

a. the net benefit rate may be variable and shall not exceed five percent (5%), and

b. in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits; and

9. "New direct job" means full-time employment which did not exist in this state prior to the date of approval, by the Oklahoma Department of Commerce, of an application made pursuant to the Small Employer Quality Jobs Incentive Act. 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 ~~anytime~~ any time within six (6) months prior to such approval.

SECTION 28. AMENDATORY 68 O.S. 2011, Section 3904, is amended to read as follows:

Section 3904. A. An establishment which meets the qualifications specified in the Small Employer Quality Jobs Incentive Act may receive quarterly incentive payments for a seven-year period from the Oklahoma Tax Commission pursuant to the provisions of the Small Employer Quality Jobs Incentive Act in an amount equal to the net benefit rate multiplied by the actual gross taxable payroll of new direct jobs as verified by the Tax 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. The establishment may apply for an effective date for a project, which shall not be more than twelve (12) months from the date the application is submitted to the Department.

C. Before approving an application for incentive payments, the Department must first determine that the applicant meets the following requirements:

1. Be engaged in a basic industry;

2. Has no more than ninety full-time employees in this state on the date of application nor an average of more than ninety full-time employees in this state during the four calendar quarters immediately preceding the date of application;

3. Has a projected minimum employment, as determined by the Department, of new direct jobs within twelve (12) months of the date of application, or after July 1, 2011, within twenty-four (24) months of the date of application, as follows:

a. if the establishment is located in a municipality with a population less than three thousand five hundred (3,500) persons, as determined by the ~~Oklahoma State Data Center~~ Department of Commerce based on the most recent U.S. Department of Commerce data, or if the

establishment is located in an unincorporated area and the largest municipality within twenty (20) miles of the establishment is such a municipality, five new direct jobs,

b. if the establishment is located in a municipality with a population of three thousand five hundred (3,500) persons or more but less than seven thousand (7,000) persons, as determined by the ~~Oklahoma State Data Center~~ Department of Commerce based on the most recent U.S. Department of Commerce data, or if the establishment is located in an unincorporated area and the largest municipality within twenty (20) miles of the establishment is such a municipality, ten new direct jobs, and

c. if the establishment is located in a municipality with a population of seven thousand (7,000) persons or more, as determined by the ~~Oklahoma State Data Center~~ Department of Commerce based on the most recent U.S. Department of Commerce data, or if the establishment is located in an unincorporated area and the largest municipality within twenty (20) miles of the establishment is such a municipality, fifteen new direct jobs.

Provided, for an establishment engaged in software publishing as defined or classified in the NAICS Manual under Industry Group No. 5112, data processing, hosting and related services as defined or classified in the NAICS Manual under Industry Group No. 5182, computer systems design and related services as defined or classified in the NAICS Manual under Industry Group No. 5415, scientific research and development services as defined or classified in the NAICS Manual under Industry Group No. 5417, medical and diagnostic laboratories as defined or classified in the NAICS Manual under Industry Group No. 6215 or testing laboratories as defined or classified in the NAICS Manual under U.S. Industry No. 541380, the projected minimum employment requirements of this paragraph must be achieved within thirty-six (36) months of the date of application;

4. Has or will have within twelve (12) months of the date of application, or after July 1, 2011, within twenty-four (24) months of the date of application, as determined by the Department, sales of at least seventy-five percent (75%) of its total sales 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, except that:

a. those establishments in the NAICS Manual under the U.S. Industry No. 541710 or 541380 are excused from the seventy-five percent (75%) out-of-state sales requirement,

b. warehouses that serve as distribution centers for retail or wholesale businesses shall be required to distribute forty percent (40%) of inventory to out-of-state locations, and

c. adjustment and collection services activities defined or classified in the NAICS Manual under U.S. Industry No. 561440 shall be required to have seventy-five percent (75%) of loans to be serviced made by out-of-state debtors;

5. Will pay the individuals it employs in new direct jobs an average annualized wage which equals or exceeds:

a. one hundred twenty-five percent (125%) of the average county wage of small employers located in that county as that percentage is determined by the ~~Oklahoma State Data Center~~ Department of Commerce based on the most recent wage and employment data from the Oklahoma Employment Security Commission for the county in which the new direct jobs are located. For purposes of this subparagraph, health care premiums paid by the applicant for individuals in new direct jobs shall be included in the annualized wage, or

b. one hundred ten percent (110%) of the average county wage of small employers located in that county as that percentage is determined by the ~~Oklahoma State Data Center~~ Department of Commerce based upon the most recent wage and employment data from the Oklahoma Employment Security Commission for the county in which the new direct jobs are located. For purposes of this subparagraph, health care premiums paid by the applicant for individuals in new direct jobs shall not be included in the annualized wage~~;~~, or

c. one hundred percent (100%) of the average county wage, excluding health care premiums paid by the applicant for individuals in new direct jobs if the county in which the new jobs are located has:

(1) according to the most recent annual determination by the Oklahoma Employment Security Commission, a county unemployment rate more than ten percent (10%) higher than the state unemployment rate, and

(2) according to the most recent United States Census Bureau Data, a county personal poverty rate above fifteen percent (15%);

6. Has a basic health benefit plan which, as determined by the Department, meets the elements established under divisions (1) through (7) of subparagraph b of paragraph 1 of subsection A of Section 3603 of this title and which will be offered to individuals within twelve (12) months of employment in a new direct job;

7. Has not received incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, or the Former Military Facility Development Act; and

8. Is not qualified for approval of an application for incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, or the Former Military Facility Development Act.

D. The Oklahoma Department of Commerce shall determine if an applicant is qualified to receive the incentive payment. Upon qualifying the applicant, the Department shall notify the Tax Commission and shall provide it with a copy of the application, and approval which shall provide the number of persons employed by the applicant upon the date of approval and the maximum total incentives which may be paid to the applicant during the seven-year period. The Tax Commission may require the qualified establishment to submit additional information as may be necessary to administer the provisions of the Small Employer Quality Jobs Incentive Act. The approved establishment shall report to the Tax Commission quarterly to show its continued eligibility for incentive payments, as provided in Section 3905 of this title. Establishments 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 incentive payments to be made for a seven-year period as long as the establishment retains its eligibility and within the limitations of the Small Employer Quality Jobs Incentive Act which existed at the time of such approval. Any establishment which has been approved for incentive payments prior to July 1, 2002, shall continue to receive such payments pursuant to the laws as they existed prior to July 1, 2002, for any period of time of the original five-year period for such payments remaining after July 1, 2002.

SECTION 29. AMENDATORY 68 O.S. 2011, Section 3914, is amended to read as follows:

Section 3914. A. An establishment which meets the qualifications specified in the 21st Century Quality Jobs Incentive Act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of this act, as verified by the Tax Commission, in an amount equal to:

1. The gross payroll multiplied by the initial net benefit rate until such time as the establishment creates ten new direct jobs~~,~~; or

2. The gross payroll multiplied by the fulfillment net benefit rate after such time as the establishment created and maintains ten new direct jobs.

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. The establishment may apply for an effective date for a project, which shall not be more than twelve (12) months from the date the application is submitted to the Department.

C. Before approving an application for incentive payments, the Department must first determine that the applicant meets the following requirements:

1. Be engaged in a basic industry as defined in the 21st Century Quality Jobs Incentive Act;

2. Will hire at least ten full-time employees in this state within twelve (12) quarters of the date of application;

3. Will pay the individuals it employs in new direct jobs an average annualized wage which equals or exceeds the lower of three hundred percent (300%) of the average of Oklahoma county wages or three hundred percent (300%) of the average county wage for the county in which the applicant is located as that percentage is determined by the ~~Oklahoma State Data Center~~ Department of Commerce based on the most recent U.S. Department of Commerce data~~.~~;

4. Has a basic health benefit plan which, as determined by the Department, meets the elements established under divisions (1) through (7) of subparagraph b of paragraph 1 of subsection A of Section 3603 of ~~Title 68 of the Oklahoma Statutes~~ this title and which will be offered to individuals within twelve (12) months of employment in a new direct job;

5. Has not received incentive payments under the Small Employer Quality Jobs Program Act, the Saving Quality Jobs Act or the Former Military Facility Development Act; and

6. Is not qualified for approval of an application for incentive payments under the Small Employer Quality Jobs Program Act, the Saving Quality Jobs Act or the Former Military Facility Development Act.

D. The Oklahoma Department of Commerce shall determine if an applicant is qualified to receive the incentive payment. Upon qualifying the applicant, the Department shall notify the Tax Commission and shall provide it with a copy of the contract and approval which shall provide the number of persons employed by the applicant upon the date of approval and the maximum total incentives which may be paid to the applicant during the ten-year period. The Tax Commission may require the qualified establishment to submit additional information as may be necessary to administer the provisions of this act. The approved establishment shall report to the Tax Commission quarterly to show its continued eligibility for incentive payments, as provided in Section 3905 of ~~Title 68 of the Oklahoma Statutes~~ this title. Establishments 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 incentive payments to be made for a ten-year period as long as the

establishment retains its eligibility and within the limitations of this act as it existed at the time of such approval.

SECTION 30. REPEALER 69 O.S. 2011, Sections 420 and 421, as amended by Section 573, Chapter 304, O.S.L. 2012 (69 O.S. Supp. 2012, Section 421), are hereby repealed.

SECTION 31. REPEALER 73 O.S. 2011, Section 310, as amended by Section 690, Chapter 304, O.S.L. 2012 (73 O.S. Supp. 2012, Section 310), is hereby repealed.

SECTION 32. REPEALER Section 6, Chapter 417, O.S.L. 1997, is hereby repealed.

SECTION 33. AMENDATORY 74 O.S. 2011, Section 2236, is amended to read as follows:

Section 2236. A. There is hereby created within the Department, the ~~Office of the~~ Oklahoma Film and Music ~~Commission~~ Office. The Office shall have the primary responsibility in state government for promoting the state as a location for producing motion pictures, television programs, videos and recording or performing music. The Office shall assist the motion picture, television and video film and music industries by providing production contacts in the state, suggesting possible filming, performing, publishing, and recording locations, and other activities that may be required to promote the state as a filming and music center. The Office shall develop resource guides, a database, and a web site. The Office shall develop listings of music festivals and music events being held in Oklahoma.

B. ~~1. There is hereby established within the Department, the Oklahoma Film and Music Commission which shall consist of the Lieutenant Governor, who shall serve as an ex officio member and as chair of the Commission, and eleven (11) members appointed by the Director of the Department. Appointed members shall serve two-year terms. Five appointed members shall have experience in the development and implementation of economic development programs. Three appointed members shall possess a broad working knowledge of the film industry. Three appointed members shall possess a broad working knowledge of the music industry.~~

~~2. The Oklahoma Film and Music Commission shall have the following responsibilities:~~

~~a. focus the film and music industry related activities and functions of the Office of the Oklahoma Film and Music Commission to provide the maximum economic development impact to the State of Oklahoma,~~

~~b. promote the film and music industries to local communities,~~

~~c. solicit input annually from a cross section of the public including industry, business, and community leaders,~~

~~d. along with the Oklahoma Music Hall of Fame, serve as a clearinghouse for the Oklahoma music industry using databases which it develops and maintains,~~

~~e. along with the Oklahoma Music Hall of Fame, promote Oklahoma music and musicians to a national and international audience,~~

~~f. assist the Office of the Oklahoma Film and Music Commission in developing a marketing plan and a production manual, and~~

~~g. assist the Office of the Oklahoma Film and Music Commission in the preparation of the annual report.~~

~~C.~~ The ~~Office of the~~ Oklahoma Film and Music ~~Commission~~ Office shall cooperate with other state and local offices as required to promote the film and music industries in this state.

~~D.~~ C. The ~~Office of the~~ Oklahoma Film and Music ~~Commission~~ Office shall establish a film production registration program. Under the program, film production companies shall be required to register with the Office prior to starting production on a film located in the state. The Office shall not require production companies to pay a fee for registration. The purpose of the program shall be to allow the Office to accurately track the number of filming productions occurring in the state and the economic impact of those productions.

~~E.~~ D. The ~~Office of the~~ Oklahoma Film and Music ~~Commission~~ Office shall submit an annual report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate prior to July 1 of each year regarding the activities of the

Office. The report shall state the number of filming productions that the Office has helped bring to the state and the economic impact of those productions, and provide similar information concerning the efforts of the Office to promote the music industry in this state.

SECTION 34. REPEALER 74 O.S. 2011, Sections 2286, 2287, 2288, as amended by Section 999, Chapter 304, O.S.L. 2012, 2289, 2290, 2291, 2292 and 2293 (74 O.S. Supp. 2012, Section 2288), are hereby repealed.

SECTION 35. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

Any monies remaining in the Oklahoma Recreation and Development Revolving Fund as created in Section 2288 of Title 74 of the Oklahoma Statutes after the effective date of this act, shall be transferred to the Department of Commerce.

SECTION 36. AMENDATORY 74 O.S. 2011, Section 4190, as amended by Section 1019, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 4190), is amended to read as follows:

Section 4190. A. The Director of the Office of Management and Enterprise Services is authorized to approve and administer child care centers for minor dependents of state employees, and may provide consultation to state agencies regarding child care centers.

B. ~~1. The Director shall appoint an advisory committee to review the child care needs of state employees, recommend suitable sites for centers, monitor and evaluate the operation of centers.~~

~~2. The advisory body shall report annually on the progress of the centers to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives.~~

~~C.~~ The Office of Management and Enterprise Services, the Department of Human Services, and the Oklahoma State Department of Health are directed to assist the Director of the Office of Management and Enterprise Services in the implementation of Sections 4190 through 4192 of this title.

~~D.~~ C. The Director is authorized to promulgate any rules necessary for the establishment and implementation of Sections 4190 through 4192 of this title.

~~E.~~ D. Licensed spaces in the child care centers shall be open to all eligible children, including those individuals not employed by the State of Oklahoma and those financially eligible for Department of Human Services child care assistance. However, minor dependents of state employees shall be given highest priority and children financially eligible for Department of Human Services child care assistance second priority for all vacant spaces.

~~F.~~ E. The Director shall approve rates for child care consistent with the rates of the industry within the geographic area.

SECTION 37. AMENDATORY 74 O.S. 2011, Section 5003.10a, is amended to read as follows:

Section 5003.10a An office established by the Oklahoma Department of Commerce outside the State of Oklahoma pursuant to paragraph 16 of Section 5003.10 of this title shall not be terminated until the Director of the Oklahoma Department of Commerce provides a written report to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate of the intent of the Director to terminate the office. ~~The International Trade Legislative Advisory Committee, created pursuant to Section 2 of this act, shall review the report and make recommendations to the Oklahoma Senate and House of Representatives regarding the proposed termination.~~ Termination of the office pursuant to this section shall not occur earlier than sixty (60) days following the date the report is filed as provided in this section. For purposes of this section, "termination" means a reduction in funding for an office or a change in representation.

SECTION 38. REPEALER 74 O.S. 2011, Section 5003.10c, is hereby repealed.

SECTION 39. REPEALER 74 O.S. 2011, Sections 5018 and 5019, as amended by Section 1031, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 5019), are hereby repealed.

SECTION 40. AMENDATORY 74 O.S. 2011, Section 5060.1a, is amended to read as follows:

Section 5060.1a A. Recognizing the vast, underutilized human and capital resources, both urban and rural, in the State of Oklahoma and the opportunity for economic development through

technological advancement, the Legislature and the Governor hereby adopt the following goals:

1. Establishing Oklahoma as a premier information technology and biotechnology center for the twenty-first century;

2. Enhancing the lives of, and expanding opportunities for, all Oklahomans through growth of information technology, biotechnology, nanotechnology and sensors industries and infrastructure throughout the urban and rural areas of the state;

3. Expanding and diversifying Oklahoma's economy and providing new and higher quality jobs for Oklahomans; and

4. Creating public-private partnerships to provide opportunities for development, expansion, and retention of, funding and financing for, and investment in, technology-oriented enterprises in Oklahoma.

B. To further the goals set forth in the Oklahoma Science and Technology Research and Development Act, there is hereby created the Oklahoma Science and Technology Research and Development Board. The Board shall be responsible for the administration and governance of the Oklahoma Center for the Advancement of Science and Technology ~~and the Oklahoma Institute of Technology~~.

SECTION 41. AMENDATORY 74 O.S. 2011, Section 5060.2, as amended by Section 1035, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 5060.2), is amended to read as follows:

Section 5060.2 A. In order to attain the goals as set forth in the Oklahoma Science and Technology Research and Development Act, Oklahoma enterprises need institutions that combine the resources of the public and private sectors to encourage the development of new products, new processes and whole new industries in Oklahoma. The institutions are needed to:

1. Support the development of new or expanded technologies;

2. Provide basic and applied research capital to move innovation to commercial application;

3. Encourage the transfer of technology to firms and farms throughout the geographic regions of the state;

4. Stimulate seed-capital investment in firms that will use innovation, new technologies, or technological advances in profitable commercial applications;

5. Foster competitiveness, productivity and modernization in Oklahoma firms and farms; and

6. Establish public-private partnerships to provide opportunities for development, expansion, and retention of, funding and financing for, and investment in, technology-oriented enterprises in Oklahoma.

B. There is hereby created the Oklahoma Center for the Advancement of Science and Technology. The Oklahoma Center for the Advancement of Science and Technology is hereby constituted an instrumentality of the state and the exercise of the authority and powers conferred by law shall be deemed and held to be the performance of an essential governmental function.

~~C. There is hereby created the Oklahoma Institute of Technology as an institute within the Oklahoma Center for the Advancement of Science and Technology. The Oklahoma Science and Technology Research and Development Board and the Oklahoma Center for the Advancement of Science and Technology are hereby directed to support the Oklahoma Institute of Technology and to include the Institute in the Center's budget work program submitted each fiscal year to the Office of Management and Enterprise Services.~~

SECTION 42. AMENDATORY 74 O.S. 2011, Section 5060.3, is amended to read as follows:

Section 5060.3 ~~A.~~ The mission of the Oklahoma Center for the Advancement of Science and Technology shall be to foster innovation in existing and developing businesses by supporting basic and applied research, by facilitating technology transfer between research laboratories and firms and farms, and by providing seed-capital for innovative and technology-oriented firms and their products. The Oklahoma Center for the Advancement of Science and Technology also shall have the authority to foster enhanced competitiveness in the national and international markets by small and medium-sized manufacturing firms located in Oklahoma by stimulating productivity and modernization of such firms.

~~B. The mission and purposes of the Oklahoma Institute of Technology shall include:~~

~~1. Attracting, retaining, and stimulating the development of information technology, biotechnology, genetics, and emerging technologies;~~

~~2. Providing leadership development programs to prepare rural residents for leadership in a technologically enhanced economy;~~

~~3. Upgrading and enhancing rural technology to grow or attract high technology companies;~~

~~4. Facilitating joint public-private technology research and development projects using resources and facilities of public higher education institutions or private entities;~~

~~5. Providing engineering or management assistance to new or existing businesses in bringing improved or innovative products or services to market; and~~

~~6. Establishing public-private partnerships to provide opportunities for development, expansion, and retention of, funding and financing for, and investment in, technology-oriented enterprises in Oklahoma.~~

SECTION 43. AMENDATORY 74 O.S. 2011, Section 5060.4, is amended to read as follows:

Section 5060.4 As used in the Oklahoma Science and Technology Research and Development Act:

1. "COEAT" means Center of Excellence for Aerospace Technology, an initiative within the Oklahoma Aerospace Institute that undertakes applied research, development and technology transfer that has long-term potential for commercial development;

2. "CASQ" means Center of Aerospace Supplier Quality, an initiative within the Oklahoma Aerospace Institute that serves as a conduit between Oklahoma's military installations and the aerospace industry;

3. "Applied research" means those research activities occurring at institutions of higher education, nonprofit research foundations, and in private enterprises which have potential commercial application;

4. "Basic research" means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, but having potential long-range value to commercial interests;

5. "Board" means the Oklahoma Science and Technology Research and Development Board;

6. "Center" or "OCAST" means the Oklahoma Center for the Advancement of Science and Technology;

7. "Commercialization Center" means a private, nonprofit corporation contracting with and funded in part by OCAST to:

a. attract to, and retain in, Oklahoma technology and technology-based enterprises,

b. promote and assist with the development and expansion of scientific and technology-based industry in the state,

c. facilitate the development of incubators for technology-oriented enterprises,

d. assist technology-based enterprises in developing and expanding their businesses, obtaining financing and funding, attracting capital, including seed capital and venture capital, and attracting and retaining key management personnel, scientists, and skilled labor, and

e. develop, operate, and manage programs to facilitate entrepreneurial activity with respect to technology, scientific-based, biomedical, biomedical-technical, and technology-oriented enterprises in this state;

8. "Enterprise" means a firm with its principal place of business in Oklahoma;

9. "Health research project" means a specific examination, experimentation or investigation, or initiative to provide research resources oriented principally toward basic, applied, and developmental scientific inquiry related to the causes, diagnosis, prevention, and treatment of human diseases and disabilities and mental health and emotional disorders, and the rehabilitation of

persons afflicted with such diseases, disabilities, and disorders; new knowledge, better understanding, and innovative methods to improve the processes by which health care services are made available and how they may be provided more efficiently, more effectively and at a lower cost, for all the citizens of this state; and the development of new products and services which shall form the basis of new high-technology health research and care industry for this state;

10. "Industrial Extension System" means a coordinated network of public and private manufacturing modernization resources, the purpose of which is to stimulate the competitiveness of Oklahoma small and medium-sized manufacturing firms;

11. ~~"Institute" means the Oklahoma Institute of Technology;~~

~~12.~~ "Institutional Review Board" means a committee composed of investigators, lay representatives, and legal counsel, which is established at each institution of higher learning and each nonprofit research institution receiving funds from a health research project, for the express purpose of determining the appropriateness of any research involving human subjects;

~~13.~~ 12. "Institutions of higher education" means public and private colleges and universities in the state;

~~14.~~ 13. "Investigator" means a person who proposes research projects and is primarily responsible for the execution of the proposed projects and is employed by or affiliated with an institution of higher education, a nonprofit research institution in this state, or a private enterprise;

~~15.~~ 14. "Nanotechnology" means technology development at the molecular range (1nm to 100nm) to create and use structures, devices, and systems that have novel properties because of their small size;

~~16.~~ 15. "New technology" means methods, products, processes and procedures developed through science or research;

~~17.~~ 16. "Nonprofit research institution" means any not-for-profit public or private facility in this state which has the capabilities for research projects and which is not a subsidiary of any corporation, partnership, or association organized for profit,

nor is its stock or assets owned or controlled by a corporation, partnership, or association organized for profit;

~~18.~~ 17. "OAI" means Oklahoma Aerospace Institute, a strategic partnership that will focus available resources to promote cooperation and collaboration among Oklahoma businesses, manufacturers, military installations, commercial aviation, higher education institutions, nonprofit research institutions, and state government;

~~19.~~ 18. "OAME" means the Oklahoma Alliance for Manufacturing Excellence, Inc., a corporation to be formed pursuant to the provisions of Title 18 of the Oklahoma Statutes and Section 5060.26 of this title;

~~20.~~ 19. "ONAP" means the Oklahoma Nanotechnology Applications Project;

~~21.~~ 20. "OSTRaD" means the Oklahoma Science and Technology Research and Development Act;

~~22.~~ 21. "Person" means any individual, partnership, corporation or joint venture carrying on business or proposing to carry on business within the state;

~~23.~~ 22. "Plant science research" means those research activities occurring at institutions of higher education, nonprofit research institutions, and in private enterprises, which have potential commercial application and concern plant productivity, renewable biomass, plant-based environmental applications and chemical platforms, plant-based solutions to improve nutrition, human and/or animal health or performance, process applications, and seed management and the development of new products and services that shall form the basis of new, high-technology plant science/agriculture industry for this state;

~~24.~~ 23. "Product" means any outcome, device, technique or process, which is or may be developed or marketed commercially and which has advanced beyond the theoretical stage and is in a prototype or practice stage;

~~25.~~ 24. "Professional service contract" means a written agreement providing funds for the performance of a research project; for salaries and fringe benefits of personnel associated with research programs; for research equipment; for operating expenses

associated with a research program; or for services provided in connection with the evaluation of applications submitted to the Center;

~~26.~~ 25. "Qualified security" means any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing to the extent allowed by law;

~~27.~~ 26. "Seed-capital" means funding, capital, and financing that is provided and made available for the creation, development, validation, refinement, protection, manufacturing, marketing, and commercialization of a product, process, concept, invention, or innovation, whether for the startup of a new enterprise or for the expansion, growth, or restructuring of an existing enterprise; and

~~28.~~ 27. "Technology transfer" means a two-way process by which ideas or inventions for processes or products (developed in research programs usually on a laboratory or pilot-plant scale) are converted to commercial use.

SECTION 44. AMENDATORY 74 O.S. 2011, Section 5060.9, is amended to read as follows:

Section 5060.9 A. The Oklahoma Science and Technology Research and Development Board shall have the power to:

1. Make, amend and repeal bylaws for the management of the Center ~~and the Institute~~;

2. Sue and be sued;

3. Make contracts and execute all instruments necessary or convenient for carrying out the business of the Center ~~and the Institute~~;

4. Acquire, own, hold, dispose of and encumber real or personal property of any nature, including tangible, intangible, commercial or intellectual, or any interest therein;

5. Enter into agreements or other transactions with any federal, state, county or municipal agency, authority or other governmental entity and with any individual, corporation, enterprise, association or any other entity involving research and technology;

6. Acquire real property or an interest therein, by purchase or foreclosure, where such acquisition is necessary or appropriate to protect or secure any investment or loan in which the Center has an interest;

7. Sell, transfer and convey any such property to a buyer, and in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, to lease such property to a tenant;

8. Invest any funds provided by the state and held in reserve in funds not required for immediate disbursement and invest funds received from gifts, grants, donations and other operations of the Center in such investments as would be lawful for a private corporation having purposes similar to the Center;

9. Borrow money and give guaranties, provided that the indebtedness and other obligations of the Center ~~or Institute~~ shall be payable solely out of the resources of the Center ~~or the Institute, respectively,~~ and shall not constitute a pledge of the full faith and credit of the state or any of its revenues;

10. Appoint officers, consultants, agents and advisors, and prescribe their duties and compensation;

11. Appear on its own behalf or on behalf of the Center ~~or Institute~~ before boards, commissions, departments or other agencies of municipal, county or state government or federal government;

12. Procure insurance against any losses in connection with its properties in such amounts from such insurers as may be necessary or desirable;

13. Consent, subject to the provisions of any contract with note-holders, whenever it considers it necessary or desirable in the

fulfillment of the goals and purposes of the Center ~~or Institute~~, to the modifications, with respect to the rate of interest, time payment or of any installment, of principal and interest or any terms of any contract or agreement of any kind to which the Center ~~or the Institute~~ is a party;

14. Accept any and all donations, grants, bequests and devises, conditional and otherwise, of money, property, services or other things of value which may be received from the United States or any agency thereof, any governmental agency, or any institution, person, firm or corporation, public or private, to be held, used or applied for any or all of the goals and purposes of the Center ~~or the Institute~~, in accordance with the terms and conditions of any such grant;

15. Trade, buy or sell qualified securities;

16. Own, possess and take license in, patents, copyrights and proprietary processes and negotiate and enter into contracts and establish charges for the use of such patents, copyrights and proprietary processes when such patents and licenses for innovation or inventions result from research sponsored by the Center ~~or Institute~~ in a private enterprise or when the Center ~~or Institute~~ finances a product developed by a private enterprise;

17. Establish policies governing royalty payments to the Center ~~and Institute~~ on patents and licenses for innovations or inventions arising in the course of research sponsored by the Center ~~or Institute~~ at institutions of higher education and nonprofit research foundations; such royalty policies should reflect an appropriate sharing of legal risk as well as financial return between the Center ~~or Institute~~ and such institution or foundation; such patents and licenses shall be in keeping with the patent policies of such institutions or foundations;

18. Conduct studies which are related to economic development, involving product or process innovations;

19. Solicit, study and assist in the preparation of business plans and proposals of new or established enterprises of special importance to the Oklahoma economy;

20. Prepare, publish and distribute such technological studies, reports, bulletins and other materials as it considers appropriate, subject only to the maintenance and responsibility for

confidentiality of the client proprietary information, and encourage institutions of higher education to develop and disseminate similar materials;

21. Sponsor, or co-sponsor with both private industry and higher education institutions, special institutes, conferences and demonstrations relating to the stimulation of innovation, science and technologically oriented enterprises;

22. Participate with any state agency or institution of higher education in developing specific goals, programs and performance monitoring systems to assist in the development of basic research, applied research and technology transfer of special importance to the Oklahoma economy;

23. Provide scientific and technological data and information required by the Governor, the Legislature, or its committees, and to state agencies, institutions of higher education and cities, towns, counties and school districts and to private citizens and groups, within the limitations of the resources available to the Center;

24. Provide training and practical experience for Oklahoma researchers in the preparation of applications for peer-reviewed grant competitions;

25. Facilitate public/private partnerships that will support the creation of endowed chairs, scholarships, research grants, and business opportunities;

26. Develop policies and procedures for partnering with and/or between universities offering engineering or technology degrees in Oklahoma to facilitate joint public/private technology research and development projects using resources and facilities of such public higher education institutions or private entities; provided that, the Board shall utilize, and accord lead status to, Rogers State University for coordinating and delivering higher education distance learning opportunities initiated or developed by the Board;

27. Advertise for, accept, and fund proposals from universities, private industries, towns, counties, municipalities, and individuals to achieve its goals and purposes;

28. Collaborate with the various entities to develop initiatives which foster economic development through technological advancement;

29. Create institutes or centers with world-class research teams that support the state's primary economic development thrusts; and

30. ~~Expend monies from the income and investment return and principal from the Oklahoma Institute of Technology Trust Fund, upon authorization of the trustees of the trust fund by the required vote as provided in Section 12 of this act; and~~

~~31.~~ Exercise any other powers necessary for the operation and functioning of the Center within the purposes authorized in this act.

B. The Center ~~and the Institute~~ shall be exempt from all franchise, corporate business and income taxes levied by the state. The manufacture or sale of any products or processes which are the subject of any agreement made by the Center ~~or the Institute~~, or any person entering into any agreement with the Center ~~or Institute~~ shall not be exempt from any such taxes or taxes applicable to such manufacture or sale.

C. The Center ~~and Institute~~ shall include in the annual business plan appropriate administrative policies, including but not limited to policies governing the classification, employment, promotion, suspension, disciplinary action or dismissal of Center employees, ~~including employees assigned to the Institute,~~ purchasing~~,~~, travel~~,~~, and reimbursement of employees. All actions governed by said administrative policies shall be examined annually in the independent audit required by Section 5060.22 of this title. The Center ~~and Institute~~ shall not be subject to state purchasing laws, except with respect to purchases required for the administrative expenses of the Board, or laws concerning travel or reimbursement of state employees. Professional service contracts executed by the Center ~~or Institute~~ shall not be subject to any requirement of law relating to competitive bidding.

Because many of the powers and duties of the Center ~~and Institute~~ involve working closely with the private sector, certain employee positions of the Center~~, including employees assigned to the Institute,~~ must be governed, classified and compensated in a manner that compares equally to similar positions in the private sector. Therefore, in the annual business plan, the Board shall list, describe and justify all such positions and their compensation and shall designate and place them in unclassified status, exempt

from the provisions of the Oklahoma Personnel Act. All other employees and positions shall be classified and subject to the provisions of the Merit System of Personnel Administration as provided in the Oklahoma Personnel Act. Provided, nothing in this section shall be construed to limit the authority of the Legislature to specify the status of positions otherwise by law. Neither shall the Board have the authority to circumvent, disregard or otherwise disobey specific provisions of law regarding positions in the Center ~~or the Institute~~.

D. Upon approval of the Board, the Center shall have the authority to exercise the powers enumerated in subsection A of this section.

SECTION 45. AMENDATORY 74 O.S. 2011, Section 5060.22, is amended to read as follows:

Section 5060.22 A. The Oklahoma Science and Technology Research and Development Board is authorized and instructed to make an annual report no later than November 1 to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives that shall describe the accomplishments, the expenditures, and the activities of the prior fiscal year. The report shall include elements the Board identifies as hampering the state's economic progress and recommendations for changes. The report shall include an independent audit in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in Government Auditing Standards, latest revised edition, issued by the Comptroller General of the United States, which shall examine, among other things, actions governed by the administrative policies adopted by the Board on behalf of the Oklahoma Center for the Advancement of Science and Technology ~~and the Oklahoma Institute of Technology~~. The annual report shall specifically account for the ways in which the need, mission and programs of the Center ~~and the Institute~~ have been carried out, including but not limited to a review of the results of the operations and transactions according to objective measures set forth in the business plan. The report shall recommend specific changes in the activities of the Center ~~or Institute~~ which are necessary to better carry out the need and mission described in the Oklahoma Center for the Advancement of Science and Technology Act. The Board shall distribute its annual report by such means that will make it widely available to those innovative enterprises of special importance to the Oklahoma economy.

B. The Board shall annually review and prepare a report showing how and at what level other states fund technology-based economic development programs. The Board shall recommend an appropriate funding level for Oklahoma which will make these programs nationally competitive with those of other states. The Board's findings and recommendations shall be included in the annual report to be submitted to the Governor and the Legislature.

C. The Center shall adopt a threshold funding level for each of the programs provided for by law. The threshold amount shall provide for funding that is great enough to have a significant impact and carry out the intent of the Legislature. If the funding for these programs falls below the threshold, then no funding shall be provided by the Center to the program funded below threshold level.

D. The Board, on behalf of the Center ~~and Institute~~, shall fund areas of research and development that the Board selects as most likely to stimulate information technology, biotechnology, genetics, meteorology and climate studies, and emerging or developing technology and related jobs; foster patents; result in new patents, copyrights, trademarks, and licenses of value; pursue world-class research teams that support the state's primary economic development thrusts or focus areas; and stimulate private and public investments with the intent to encourage economic development in Oklahoma.

SECTION 46. AMENDATORY 74 O.S. 2011, Section 5060.30, as amended by Section 1039, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 5060.30), is amended to read as follows:

Section 5060.30 A. The "Oklahoma ~~Institute of~~ Technology Trust Fund" is hereby created. The trust fund shall be administered as follows:

1. The trustees of the trust fund shall consist of seven members of the Oklahoma Science and Technology Research and Development Board who are the presidents of Oklahoma State University, the University of Oklahoma, and the private university offering graduate engineering degrees and the four chief executive officers or senior executive officers of corporations or foundations. The chair of the board of trustees shall be elected by the trustees from among the four chief executive officers or senior executive officers who also serve on the Oklahoma Science and Technology Research and Development Board.

2. After January 1, 2003, the board of trustees may by unanimous vote expand the number of trustees at any time. No more than three members added by the board of trustees may serve concurrently. The members added by the board of trustees shall be representatives of industries ~~that have demonstrated support for the Oklahoma Institute of Technology~~, shall have full voting rights, and shall serve four-year terms. A position added by the board of trustees may be filled at the end of the term by vote of the trustees. A position not filled by the trustees at the end of the term shall be considered abolished.

3. ~~The trust fund shall be utilized to further the mission and purposes of the Institute.~~

~~4.~~ The trust fund principal shall consist of monies received from any monies the Legislature appropriates for, or transfers to, the trust fund and any monies or assets contributed to the trust fund from any other source, public or private. Notwithstanding other provisions of law, income and investment return on trust fund principal shall accrue to the trust fund and may be authorized upon a majority vote of the trustees for use and expenditure by the Oklahoma Science and Technology Research and Development Board ~~for the purposes of the Institute~~. Use of the trust fund principal may be authorized upon a vote of three-fourths of the trustees for use and expenditure by the Oklahoma Science and Technology Research and Development Board ~~to achieve the purposes and goals of the Institute~~.

~~5.~~ 4. The trustees shall develop procedures for accomplishing transfer of income and investment return to appropriate accounts set up in the Office of the State Treasurer.

~~6.~~ 5. The trust fund may be dissolved upon an act approved by three-fourths (3/4) of both houses of the Legislature or pursuant to a plan for use of the principal, leading to dissolution of the trust fund, over a ten-year period that has been proposed by the trustees and approved by the Legislature and the Governor. Upon the trust fund's dissolution, any funds in the trust fund shall be placed in the state general revenue fund, unless the Legislature specifically provides otherwise.

B. There is hereby created in the State Treasury a fund for the Oklahoma ~~Institute of Technology~~ Center for the Advancement of Science and Technology to be designated the "Oklahoma ~~Institute of~~

Technology Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of any monies received by the ~~Institute~~ Center from the Legislature or other sources for the fund. All monies accruing to the credit of the fund are hereby appropriated and may be budgeted and expended by the Oklahoma Science and Technology Research and Development Board for the purposes of the ~~Institute~~ Center. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of the Office of Management and Enterprise Services for approval and payment. The Oklahoma Science and Technology Research and Development Board shall develop procedures for setting up accounts within the fund as necessary in the Office of the State Treasurer. The Board shall place only funds appropriated for or otherwise received for the ~~Institute~~ Center in the accounts for the ~~Institute~~ Center and shall not commingle funds that are not appropriated or otherwise received for the ~~Institute~~ Center with funds appropriated or received for any other purpose of the Center.

SECTION 47. REPEALER 74 O.S. 2011, Section 5212, is hereby repealed.

SECTION 48. REPEALER 74 O.S. 2011, Section 8401, as amended by Section 1052, Chapter 304, O.S.L. 2012 (74 O.S. Supp. 2012, Section 8401), is hereby repealed.

SECTION 49. AMENDATORY 75 O.S. 2011, Section 250.10, is amended to read as follows:

Section 250.10 The Governor by Executive Order or either house of the Legislature or both houses of the Legislature by resolution, or a small business ~~or the Small Business Regulatory Review Committee pursuant to Section 5 of this act~~, may request an agency to review its rules to determine whether or not the rules in question should be amended, repealed or redrafted. The agency shall respond to requests from the Governor or the Legislature within ninety (90) calendar days of such request.

SECTION 50. AMENDATORY 75 O.S. 2011, Section 303, is amended to read as follows:

Section 303. A. Prior to the adoption of any rule or amendment or revocation of a rule, the agency shall:

1. Cause notice of any intended action to be published in "The Oklahoma Register" pursuant to subsection B of this section;

2. For at least thirty (30) days after publication of the notice of the intended rulemaking action, afford a comment period for all interested persons to submit data, views or arguments, orally or in writing. The agency shall consider fully all written and oral submissions respecting the proposed rule;

3. Hold a hearing, if required, as provided by subsection C of this section;

4. Consider the effect its intended action may have on the various types of business and governmental entities. Except where such modification or variance is prohibited by statute or constitutional constraints, if an agency finds that its actions may adversely affect any such entity, the agency may modify its actions to exclude that type of entity, or may "tier" its actions to allow rules, penalties, fines or reporting procedures and forms to vary according to the size of a business or governmental entity or its ability to comply or both. For business entities, the agency shall include a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, and use quantifiable data to the extent possible, taking into account both short-term and long-term consequences; and

5. Consider the effect its intended action may have on the various types of consumer groups. If an agency finds that its actions may adversely affect such groups, the agency may modify its actions to exclude that type of activity.

B. The notice required by paragraph 1 of subsection A of this section shall include, but not be limited to:

1. In simple language, a brief summary of the rule;

2. The proposed action being taken;

3. The circumstances which created the need for the rule;

4. The specific legal authority authorizing the proposed rule;

5. The intended effect of the rule;

6. If the agency determines that the rule affects business entities, a request that such entities provide the agency, within the comment period, in dollar amounts if possible, the increase in the level of direct costs such as fees, and indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services, revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the proposed rule;

7. The time when, the place where, and the manner in which interested persons may present their views thereon pursuant to paragraph 3 of subsection A of this section;

8. Whether or not the agency intends to issue a rule impact statement according to subsection D of this section and where copies of such impact statement may be obtained for review by the public;

9. The time when, the place where, and the manner in which persons may demand a hearing on the proposed rule if the notice does not already provide for a hearing. If the notice provides for a hearing, the time and place of the hearing shall be specified in the notice; and

10. Where copies of the proposed rules may be obtained for review by the public. An agency may charge persons for the actual cost of mailing a copy of the proposed rules to such persons.

The number of copies of such notice as specified by the Secretary shall be submitted to the Secretary who shall publish the notice in "The Oklahoma Register" pursuant to the provisions of Section 255 of this title.

Prior to or within three (3) days after publication of the notice in "The Oklahoma Register", the agency shall cause a copy of the notice of the proposed rule adoption and the rule impact statement, if available, to be mailed to all persons who have made a timely request of the agency for advance notice of its rulemaking proceedings. Provided, in lieu of mailing copies, an agency may electronically notify interested persons that a copy of the proposed rule and the rule impact statement, if available, may be viewed on the agency's web site. If an agency posts a copy of the proposed rule and rule impact statement on its web site, the agency shall not charge persons for the cost of downloading or printing the proposed rule or impact statement. Each agency shall maintain a listing of persons or entities requesting such notice.

C. 1. If the published notice does not already provide for a hearing, an agency shall schedule a hearing on a proposed rule if, within thirty (30) days after the published notice of the proposed rule adoption, a written request for a hearing is submitted by:

a. at least ten persons,

b. a political subdivision,

c. an agency, <u>or</u>

d. an association having not less than twenty-five members~~, or~~

~~e. the Small Business Regulatory Review Committee~~.

At that hearing persons may present oral argument, data, and views on the proposed rule.

2. A hearing on a proposed rule may not be held earlier than thirty (30) days after notice of the hearing is published pursuant to subsection B of this section.

3. The provisions of this subsection shall not be construed to prevent an agency from holding a hearing or hearings on the proposed rule although not required by the provisions of this subsection; provided that notice of such hearing shall be published in "The Oklahoma Register" at least thirty (30) days prior to such hearing.

D. 1. Except as otherwise provided in this subsection, an agency shall issue a rule impact statement of a proposed rule prior to or within fifteen (15) days after the date of publication of the notice of proposed rule adoption. The rule impact statement may be modified after any hearing or comment period afforded pursuant to the provisions of this section.

2. Except as otherwise provided in this subsection, the rule impact statement shall include, but not be limited to:

a. a brief description of the purpose of the proposed rule,

b. a description of the classes of persons who most likely will be affected by the proposed rule,

including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the agency from any private or public entities,

c. a description of the classes of persons who will benefit from the proposed rule,

d. a description of the probable economic impact of the proposed rule upon affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change,

e. the probable costs and benefits to the agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule, and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the agency,

f. a determination of whether implementation of the proposed rule will have an economic impact on any political subdivisions or require their cooperation in implementing or enforcing the rule,

g. a determination of whether implementation of the proposed rule may have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act,

h. an explanation of the measures the agency has taken to minimize compliance costs and a determination of whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule,

i. a determination of the effect of the proposed rule on the public health, safety and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk,

j. a determination of any detrimental effect on the public health, safety and environment if the proposed rule is not implemented, and

k. the date the rule impact statement was prepared and if modified, the date modified.

3. To the extent an agency for good cause finds the preparation of a rule impact statement or the specified contents thereof are unnecessary or contrary to the public interest in the process of adopting a particular rule, the agency may request the Governor to waive such requirement. Upon request by an agency, the Governor may also waive the rule impact statement requirements if the agency is required to implement a statute or federal requirement that does not require an agency to interpret or describe the requirements, such as federally mandated provisions which afford the agency no discretion to consider less restrictive alternatives. If the Governor fails to waive such requirement, in writing, prior to publication of the notice of the intended rulemaking action, the rule impact statement shall be completed. The determination to waive the rule impact statement shall not be subject to judicial review.

4. The rule shall not be invalidated on the ground that the contents of the rule impact statement are insufficient or inaccurate.

E. Upon completing the requirements of this section, an agency may adopt a proposed rule. No rule is valid unless adopted in substantial compliance with the provisions of this section.

SECTION 51. AMENDATORY 75 O.S. 2011, Section 502, is amended to read as follows:

Section 502. As used in the Oklahoma Small Business Regulatory Flexibility Act:

1. "Agency" is defined as provided by paragraph 3 of Section 250.3 of ~~Title 75 of the Oklahoma Statutes~~ this title, except that agencies established by Title 59 of the Oklahoma Statutes that license and regulate or discipline professions and occupations shall be exempt from the definition of agency in the Oklahoma Small Business Regulatory Flexibility Act;

2. ~~"Committee" means the Small Business Regulatory Review Committee;~~

~~3.~~ "Rule" is defined as provided by paragraph ~~15~~ 17 of Section 250.3 of ~~Title 75 of the Oklahoma Statutes~~ this title, provided that the definition shall not include emergency or preemptive rules; and

~~4.~~ 3. "Small business" means a for-profit enterprise consisting of fifty or fewer full-time or part-time employees.

SECTION 52. AMENDATORY 75 O.S. 2011, Section 504, is amended to read as follows:

Section 504. A. Prior to submitting proposed permanent rules for adoption, amendment, revision or revocation pursuant to the Administrative Procedures Act, the agency shall comply with the provisions of paragraph 4 of subsection A of Section 303 of this title in order to determine whether the proposed rules adversely affect small business.

B. ~~If the proposed rules may have an adverse economic effect upon small business, the agency shall submit a copy of the proposed rules and a rule impact statement to the Small Business Regulatory Review Committee for its review and comment pursuant to the review and comment provisions of paragraph 2 of subsection A and paragraph 6 of subsection B of Section 303 of this title.~~

~~C. Within the review and comment period, if the Small Business Regulatory Review Committee determines that the proposed rules may have an adverse economic effect upon small business, the Committee shall submit to the agency a request to consider:~~

~~1. The availability and practicability of less restrictive alternatives that could be implemented; and~~

~~2. Creative, innovative, or flexible methods of compliance for small businesses.~~

~~D.~~ The Oklahoma Small Business Regulatory Flexibility Act shall not apply to proposed permanent rules by an agency to implement a statute or ordinance that does not require an agency to interpret or describe the requirements of the statute or ordinance, such as state legislative or federally mandated provisions which afford the agency no discretion to consider less restrictive alternatives.

SECTION 53. AMENDATORY 75 O.S. 2011, Section 505, is amended to read as follows:

Section 505. A. For promulgated rules, any adversely affected small business may file a written petition with the agency that has promulgated the rules objecting to all or part of any rule adversely affecting small business on any of the following grounds:

1. The actual effect on small business was not reflected in, or significantly exceeded, the small business impact statement formulated by the agency pursuant to the provisions of paragraph 4 of subsection A and paragraph 6 of subsection B of Section 303 of ~~Title 75 of the Oklahoma Statutes~~ this title prior to the adoption of the rules;

2. These impacts were either not previously considered at the public hearing on the rules or there was no public hearing on the rules; or

3. The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.

B. ~~Upon submission of the petition, the agency shall forward a copy of the petition to the Small Business Regulatory Review Committee as notification of a petition filed under the Oklahoma Small Business Regulatory Flexibility Act.~~ The agency shall promptly consider the petition and may seek advice and counsel regarding the petition. Within sixty (60) days after the submission of the petition, the agency shall determine whether the impact statement or the public hearing addressed the actual and significant impact on small business or if conditions justifying the rule have changed. ~~The agency shall submit a written response of its determination to the Small Business Regulatory Review Committee within sixty (60) days after receipt of the petition.~~ If the agency determines that the petition merits the amendment, revision, or revocation of a rule, it may initiate proceedings in accordance with the applicable requirements of the Administrative Procedures Act.

~~C. If the agency determines that the petition does not merit the amendment, revision, or revocation of any rule, any adversely affected small business may seek a review of the decision by the Small Business Regulatory Review Committee. The Committee shall promptly convene a meeting for the purpose of determining whether to recommend that the agency initiate proceedings in accordance with the Administrative Procedures Act. Such review shall not be de novo but shall be based upon the actual record presented to the agency.~~

~~The Committee may base its recommendation on any of the following reasons:~~

~~1. The actual effect on small business was not reflected in, or significantly exceeded, the small business impact statement formulated by the agency pursuant to the provisions of paragraph 4 of subsection A and paragraph 6 of subsection B of Section 303 of Title 75 of the Oklahoma Statutes prior to the promulgation of the rules;~~

~~2. These impacts were not previously considered by the agency; or~~

~~3. The technology, economic conditions, or other relevant factors justifying the purpose for the rules have changed or no longer exist.~~

~~D. If the Small Business Regulatory Review Committee recommends that an agency initiate rulemaking proceedings for any reason provided in subsection C of this section, the Committee shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate an evaluation report and the agency's response as provided in subsection B of this section. The Legislature may subsequently take such action in response to the evaluation report and the agency's response as the Legislature finds appropriate.~~

SECTION 54. REPEALER 75 O.S. 2011, Section 503, is hereby repealed.

SECTION 55. REPEALER Section 2, Chapter 335, O.S.L. 2007, is hereby repealed.

SECTION 56. REPEALER Section 1, Chapter 163, O.S.L. 2008, is hereby repealed.

SECTION 57. This act shall become effective November 1, 2013.

Passed the House of Representatives the 2nd day of May, 2013.

Presiding Officer of the House
of Representatives

Passed the Senate the 24th day of April, 2013.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 6th

day of May, 20 13, at 2:28 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 10th

day of May, 20 13, at 12:26 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 10th

day of May, 20 13, at 2:27 o'clock P. M.

By: Chris Mecuiss