

## SQ 725 IN A NUTSHELL

SQ 725, which will appear on the November 2006 ballot, asks Oklahoma voters to decide on a constitutional amendment that makes up to \$10 million available annually from the state's Constitutional Reserve Fund (Rainy Day Fund) for incentive payments to make new capital investments aimed at helping at-risk manufacturing companies that may be forced to close or move elsewhere.

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# Issue Brief

October 2006

## Oklahoma State Question 725: Use of Constitutional Reserve Fund for At-Risk Manufacturers

By David Blatt, Director of Public Policy

### Current Law

Oklahoma currently operates numerous tax credit and cash incentive programs targeted at assisting manufacturers looking to invest or create additional jobs in Oklahoma. However, no existing program allows for financial incentives to help retain manufacturers that are already operating in Oklahoma but that may be weighing leaving the state or shutting down operations. The state's Constitutional Reserve Fund (Rainy Day Fund) may currently be used for emergency appropriations or to address revenue shortfalls in certain circumstances but cannot be used to provide financial incentives.

### The Proposal

SQ 725 would amend Article 10, Section 23 of the Constitution to allow for a total of \$10 million per year to be spent from the Constitutional Reserve Fund (Rainy Day Fund) to provide financial incentives designed to help retain "at-risk" manufacturers operating in Oklahoma. Payments would be made to eligible companies meeting various specified requirements as follows:

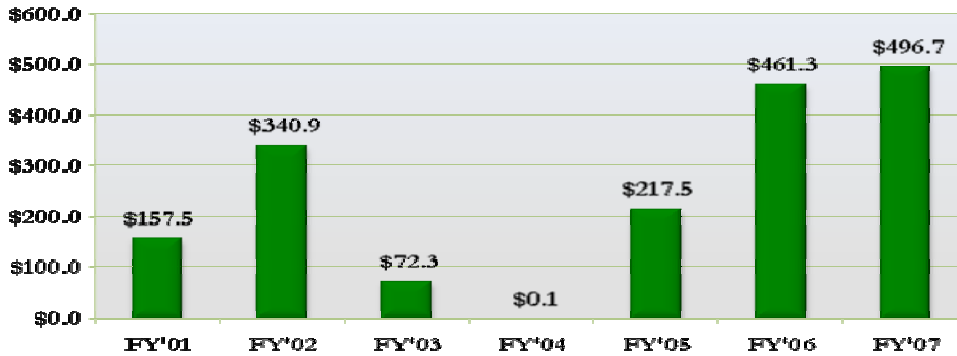
- **ELIGIBILITY:** Quality investment incentive payments may be made to manufacturing companies presently operating in Oklahoma that are judged to be "at-risk establishments". Funds are intended to support the retention of companies that can be expected to provide substantial benefit to the state if assisted with new capital investment. A seven-member Quality Investment Committee will evaluate applications based on a number of specified factors related to the company's location, economic impact, historical contributions and tax revenue projections. The Committee will make recommendations that must be adopted unanimously by the Governor, House Speaker and Senate President Pro Tem. Any company receiving quality investment payments will be ineligible for other tax incentives and credits granted by the State of Oklahoma.
- **PAYMENTS:** Eligible companies may receive incentive payments for reimbursement of up to 10% of capital costs of projects exceeding \$1 million for new retooling or modernization projects. No single company may be eligible for more than \$5 million in subsidies. Payments may be granted annually for up to five years and are based on actual expenditures. Companies are required to enter into a Quality Investment Contract. One of the requirements of the contract is that at least \$1 million must be invested within the first 24 months of the contract. Participating companies commit to maintaining a minimum amount of Oklahoma payroll and to providing basic health insurance. The legislation allows for local governments to join with the state in contributing incentive payments.

State Question 725 is contained in SB 755 that passed the Legislature in 2005. In 2006, the Legislature approved HB 1619, the Oklahoma Quality Investment Act, as follow-up legislation that specifies how the provisions of SQ 725 would be implemented. Both bills were authored by Sen. Debbie Leftwich (D-Oklahoma City) and Rep. John Nance (R – Bethany).

**Fiscal Impact**

Annual incentive payments for all projects would be limited to \$10 million. Payments could be made only in years when the Constitutional Reserve Fund has a balance at the beginning of the year of at least \$80 million and when revenues for the upcoming fiscal year are projected to increase.

**Rainy Day Balances, FY'01 - FY'07  
(opening balance in \$ millions)**



**Ballot Language**

*The text of SQ 725 as it will appear on the November ballot::*

This measure amends the State Constitution. It amends Section 23 of Article 10. The measure deals with the Constitutional Reserve Fund also known as the Rainy Day Fund. The measure allows money to be spent from the Rainy Day Fund. The purpose of the authorized spending is to retain employment for state residents by helping at-risk manufacturers. Payments from the Fund would be used to encourage such manufacturers to make investments in Oklahoma. All such payments from the Fund must be unanimously approved by three State officers. Those officers are the Governor and the head of the Senate and House of Representatives. These officers could only approve payments recommended by an independent committee. Such spending is allowed in years when there is Eighty Million Dollars or more in the Fund and other conditions are met. Such spending is limited to Ten Million Dollars a year. The help given to a manufacturer is limited to ten percent of its in-State capital investments. The Legislature could make laws to carry out the amendment.

**Arguments For and Against SQ 725**

**“Supporters Say...**

The Quality Investment Program is a critical and appropriate mechanism that would help Oklahoma retain existing manufacturers that have a vital economic impact on communities and employees.

The potential loss of jobs, tax dollars and general economic activity to a local community and the state that can result from a plant closing represents an “emergency” and thus falls under the provision for use of the Rainy Day Fund.

This program is subject to formal and rigorous guidelines and oversight. HB 1619 identifies clear criteria by which to evaluate whether incentive payments can be expected to be economically efficient. The requirement of a formal investment contract guarantees that companies that receive incentive payments will invest in capital assets over a five-year period and makes payments contingent on the company’s actual investments.

**“Opponents Say...**

These kind of financial subsidies are a distortion of free market principles and amount to corporate welfare. The government should not be in the business of assisting private firms.

The Rainy Day Fund is intended to address budgetary emergencies. Dipping into the Rainy Day Fund to fund economic development programs leaves the state more vulnerable to budget downturns and creates a bad precedent that opens the door to further raids on the state’s reserves.

Because operation of the program is tied to the fluctuating balance of the Rainy Day Fund and annual revenue projections, manufacturers may find themselves ineligible for payments for one or more years, which may create uncertainty for investors.

**For More Information**

**SB 755 (2005)** [http://lsb.state.ok.us/2005-06bills/SB/SB755\\_ENR.RTF](http://lsb.state.ok.us/2005-06bills/SB/SB755_ENR.RTF)  
**HB 1619 (2006)** [http://lsb.state.ok.us/2005-06bills/HB/HB1619\\_ENR.RTF](http://lsb.state.ok.us/2005-06bills/HB/HB1619_ENR.RTF)

