

BILL SUMMARY

2nd Session of the 58th Legislature

Bill No.:	HB 4455
Version:	CS
Request Number:	11397
Author:	Chairman Wallace
Date:	4/18/2022
Impact:	Creates Rebate Program

**Provides 3.4 Percent Rebate
on Qualifying Expenditures**

Provides Procedures for Qualification

**Potential Rebates Payable
(Based on Stated Minimum Capital Expenditures):
\$698,020,000**

**Net Benefits Resulting from
Employment, Investment
and Economic Activity**

Research Analysis

The committee substitute for HB 4455 creates the Large-scale Economic Activity and Development (LEAD) Act of 2022, which provides for a 10-year investment rebate program for the cost of qualified capital expenditures for certain establishments based on creation of new direct jobs. The threshold number of new direct jobs required for qualification are as follows:

- 500 new direct jobs in year one of the rebate payment period;
- 1,000 cumulative new direct jobs in year two of the rebate payment period;
- 2,500 cumulative new direct jobs in year three of the rebate payment period;
- 4,000 cumulative new direct jobs in year four of the rebate payment period; and
- 4,000 cumulative new direct jobs in year five of the rebate payment period.

To be eligible for consideration for the program, the primary establishment must provide with its application to the Oklahoma Department of Commerce a capital expenditure plan associated with qualified capital expenditures totaling no less than \$3.606 billion. An establishment with qualified capital expenditures of no less than \$500 million may be eligible if a separate establishment with \$3.606 billion has been approved by the Department of Commerce. Additionally, to be eligible, an establishment must have made qualified capital expenditures of no less than 20 percent of its capital expenditure plan, be qualified to receive payments through the Oklahoma Quality Jobs Program Act, and have filed all Oklahoma tax returns and documents.

For establishments qualifying for the program that have capital expenditures of no less than \$500 million, the threshold numbers of new direct jobs will be reduced proportionally to reflect the

lesser capital expenditure. New direct jobs of subsidiaries classified in the NAICS Manual under Industry Group numbers 5132 (software publishers), 5222 (nondepository credit intermediation), or 5413 (architectural, engineering, and related services) will be aggregated with the number of new direct jobs in the state of the primary establishment for the purpose of determining if the new direct jobs threshold is met.

The investment rebate payment will be 3.4 percent of the cost of the qualified capital expenditure in the year of expenditure, and is payable for five consecutive years, so long as the establishment remains eligible. Investments made by subsidiaries can be included in the cost of qualified capital expenditure if the subsidiaries are classified in the NAICS Manual under Industry Group numbers 5132, 5222, or 5413. The measure allows the Department of Commerce to conditionally pre-qualify and account for anticipated future investment payment rebates.

Primary establishment capital expenditure amounts less than \$4.5 billion will not be eligible to receive the current investment tax credit ([68 O.S. Section 2357.4](#)).

The measure creates the Large-scale Economic Activity and Development (LEAD) Fund, which will consist of all monies designated for deposit to the fund by law. Any monies left in the Fund upon expiration of the LEAD Act on July 1, 2032, will be transferred to the General Revenue Fund.

Finally, the measure directs the Department of Commerce and Oklahoma Tax Commission to promulgate rules to implement and administer the program, and further directs the Department of Commerce to submit an annual report to the Speaker of the House, President Pro Tempore of the Senate, Chair of the House Appropriations and Budget Committee, Chair of the Senate Appropriations Committee, and the Executive Director of the Legislative Office of Fiscal Transparency.

Prepared By: Emily McPherson

Fiscal Analysis

The measure, the Large-scale Economic Activity and Development ("LEAD") Act, creates an investment rebate program for the cost of qualified capital expenditures which create no less than stated new direct jobs:

Year 1: 500
Year 2: 1,000
Year 3: 2,500
Year 4: 4,000
Year 5: 4,000

The measure also establishes a procedure for application and documentation by the Department of Commerce ("Department") which will require qualified capital expenditures of not less than \$3,606,000,000 and an additional \$500,000,000 in qualified capital expenditure for an entity when a separate establishment has been approved by the Department. As part of the qualification process an entity is to be qualified for participation in the Oklahoma Quality Jobs Incentive Act program.

No participation in the current investment tax credit (68 O.S., Section 2357.4) for capital expenditure under \$4,500,000,000.

The payment calculation includes a rebate for 3.40 percent of the cost of qualified expenditure in the year of expenditure, which may be claimed for five successive years. Based on minimum capital expenditures set forth, the value of available rebates for qualifying entities could approach \$698,020,000 over the period of capital investment. Eligibility must be maintained throughout the expenditure period. Subsidiary investment is allowed as determining the base for calculation.

The Department has undertaken modeling to estimate the benefits to state revenue and the economy resulting from the increased employment, investment and economic activity.

Prepared By: Mark Tygret

Other Considerations

The administration of the rebate program by the Department includes a pre-qualification of large-scale projects, but prohibits pre-qualification should such action result in rebates that exceed the LEAD Fund balance.