

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1176

6 By: Thompson (Roger) and Hall
7 of the Senate

8 and

9 Wallace and Martinez of the
10 House

11 COMMITTEE SUBSTITUTE

12 An Act relating to economic development; amending
13 Sections 4 and 6, Chapter 66, O.S.L. 2022 (68 O.S.
14 Supp. 2022, Sections 3645.4 and 3645.6), which relate
15 to the Large-scale Economic Activity and Development
16 Act of 2022; modifying certain job threshold
17 requirement; requiring transfer of funds if certain
18 commitment is not received by the Oklahoma Department
19 of Commerce by certain date; updating statutory
20 language; updating statutory references; and
21 declaring an emergency.

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

23 SECTION 1. AMENDATORY Section 4, Chapter 66, O.S.L. 2022
24 (68 O.S. Supp. 2022, Section 3645.4), is amended to read as follows:

Section 3645.4. A. 1. There is hereby created until July 1,
2032, an investment rebate program for the cost of qualified capital

1 expenditures by establishments which create not less than a
2 threshold number of new direct jobs as provided in this section.

3 2. a. The threshold number of new direct jobs required for
4 establishments to qualify and remain qualified for
5 investment rebate payments created in paragraph 1 of
6 this subsection shall be as follows:

7 (1) five hundred (500) new direct jobs in year one of
8 the rebate payment period,

9 (2) one thousand (1,000) cumulative new direct jobs
10 in year two of the rebate payment period,

11 (3) two thousand five hundred (2,500) cumulative new
12 direct jobs in year three of the rebate payment
13 period,

14 (4) ~~four thousand (4,000)~~ three thousand five hundred
15 (3,500) cumulative new direct jobs in year four
16 of the rebate payment period, and

17 (5) ~~four thousand (4,000)~~ three thousand five hundred
18 (3,500) cumulative new direct jobs in year five
19 of the rebate payment period.

20 b. For establishments qualifying for investment rebate
21 payments pursuant to division (2) of subparagraph a of
22 paragraph 1 of subsection E of this section, the
23 threshold numbers provided in this paragraph shall be
24 reduced proportionally to reflect the lesser capital

1 expenditure of such establishment. Such reduction
2 shall be achieved by multiplying the thresholds in
3 paragraph 2 of this subsection by a fractional
4 equivalent equal to the following: the capital
5 expenditure plan amount of the establishment
6 qualifying pursuant to division (2) of subparagraph a
7 of paragraph 1 of subsection E of this section,
8 divided by the capital expenditure plan amount of the
9 establishment qualifying pursuant to division (1) of
10 subparagraph a of paragraph 1 of subsection E of this
11 section.

12 3. New direct jobs in this state of a subsidiary of a primary
13 establishment, if such subsidiary is defined or classified in the
14 NAICS Manual under Industry Group No. 5132, 5222, or 5413, shall be
15 aggregated with the number of new direct jobs in the state of the
16 primary establishment for the purpose of determining if the
17 thresholds provided in paragraph 2 of this subsection are met.

18 B. The investment rebate program shall be administered by the
19 Oklahoma Department of Commerce and the Oklahoma Tax Commission.

20 C. By October 1 of each year, the Oklahoma Department of
21 Commerce shall submit electronically an annual report to the Speaker
22 of the ~~Oklahoma~~ House of Representatives, the President Pro Tempore
23 of the ~~Oklahoma State~~ Senate, the Chair of the Appropriations and
24 Budget Committee of the ~~Oklahoma~~ House of Representatives, the Chair

1 of the Appropriations Committee of the ~~Oklahoma State~~ Senate, and
2 the Executive Director of the Legislative Office of Fiscal
3 Transparency detailing the program and investment rebate payments.

4 D. The Oklahoma Department of Commerce and the Oklahoma Tax
5 Commission may promulgate rules to implement the provisions of ~~this~~
6 ~~act~~ the Large-scale Economic Activity and Development Act of 2022
7 (LEAD Act).

8 E. To be eligible for consideration for an investment rebate
9 payment awarded under the provisions of ~~this act~~ the LEAD Act, a
10 primary establishment shall:

11 1. a. (1) Submit an application and documentation to the
12 Oklahoma Department of Commerce, as required by
13 the Department, outlining a capital expenditure
14 plan in this state associated with qualified
15 capital expenditures totaling no less than Three
16 Billion Six Hundred Six Million Dollars
17 (\$3,606,000,000.00), or

18 (2) Submit an application and documentation to the
19 Oklahoma Department of Commerce, as required by
20 the Department, outlining a capital expenditure
21 plan in this state associated with qualified
22 capital expenditures totaling no less than Five
23 Hundred Million Dollars (\$500,000,000.00),
24 provided a separate establishment has been

1 approved by the Oklahoma Department of Commerce
2 to participate in the investment rebate program
3 pursuant to division (1) of this subparagraph,
4 and such establishment participating pursuant to
5 division (1) of this subparagraph remains in
6 compliance with such approved application, and

- 7 b. Have made qualified capital expenditures of no less
8 than twenty percent (20%) of the capital expenditure
9 plan outlined in the application submitted by the
10 primary establishment and approved by the Oklahoma
11 Department of Commerce, pursuant to the provisions of
12 ~~this act~~ the LEAD Act.

13 New investment in this state of a subsidiary of a primary
14 establishment, if such subsidiary is defined or classified in the
15 NAICS Manual under Industry Group No. 5132, 5222, or 5413, shall be
16 aggregated with the investment in this state of the primary
17 establishment for the purpose of determining if the thresholds
18 provided in this paragraph are met;

19 2. Be qualified to receive payments pursuant to the provisions
20 of the Oklahoma Quality Jobs Program Act created pursuant to Section
21 3601 of Title 68 of the Oklahoma Statutes; and

22 3. Have filed all Oklahoma tax returns and tax documents
23 required by law.
24

1 F. 1. Notwithstanding any other provision of law, if a primary
2 establishment receives an investment rebate payment pursuant to the
3 provisions of ~~this act~~ the LEAD Act, neither the qualified
4 establishment nor its subsidiaries shall be eligible to receive the
5 credits provided for in Section 2357.4 of Title 68 of the Oklahoma
6 Statutes, in connection with the project or development for which
7 the investment rebate payment was based; provided, however, the
8 limitation provided in this paragraph, on claiming credits, shall
9 not apply to the amount of qualifying capital expenditure in excess
10 of Four Billion Five Hundred Million Dollars (\$4,500,000,000.00)
11 made by an establishment on a project or development in this state.

12 2. Notwithstanding any other provision of law, no investment
13 expenditure shall be utilized for calculation purposes in a way that
14 results in the qualification of more than one establishment under
15 the provisions of ~~this act~~ the LEAD Act, for investment rebate
16 payments based on the same expenditure.

17 3. Notwithstanding any other provision of law, no investment
18 rebate payment amount pre-qualified or pre-encumbered by the
19 Oklahoma Department of Commerce for an establishment qualifying for
20 payment under the provisions of division (1) of subparagraph a of
21 paragraph 1 of subsection E of this section, shall be reallocated to
22 an establishment that at such time is participating under an
23 approved application pursuant to division (2) of subparagraph a of
24 paragraph 1 of subsection E of this section.

1 G. 1. Except as limited by paragraph 2 of this subsection, the
2 Oklahoma Department of Commerce shall approve or disapprove claims
3 for rebates and shall notify the Tax Commission subject to the
4 limitations set forth in Section ~~5 of this act~~ 3645.5 of this title.
5 Upon notification of approval from the Department, the Commission
6 shall issue payment for all approved claims from funds held in the
7 Large-scale Economic Activity and Development Fund created pursuant
8 to Section ~~6 of this act~~ 3645.6 of this title and subject to the
9 limitations set forth in Section ~~5 of this act~~ 3645.5 of this title.

10 2. The Department shall disapprove all applications and claims,
11 as well as portions of applications and claims, for rebates that
12 would exceed the balance of available funds in the Large-scale
13 Economic Activity and Development Fund.

14 H. The total amount of applications approved and investment
15 rebate payments awarded under the provisions of ~~this act~~ the LEAD
16 Act shall not exceed the total amount of monies designated by law
17 for deposit to the Large-scale Economic Activity and Development
18 Fund.

19 SECTION 2. AMENDATORY Section 6, Chapter 66, O.S.L. 2022
20 (68 O.S. Supp. 2022, Section 3645.6), is amended to read as follows:

21 Section 3645.6. A. There is hereby created in the State
22 Treasury a fund for the Oklahoma Tax Commission to be designated the
23 "Large-scale Economic Activity and Development Fund", also known as
24 the "LEAD Fund". The fund shall be a continuing fund, not subject

1 to fiscal year limitations, and shall consist of all monies
2 designated for deposit to the fund by law. All monies accruing to
3 the credit of the fund are hereby appropriated and may be budgeted
4 and expended by the Tax Commission for the purpose of paying rebates
5 as provided in the Large-scale Economic Activity and Development Act
6 of 2022. Expenditures from ~~said~~ such fund shall be made upon
7 warrants issued by the State Treasurer against claims filed as
8 prescribed by law with the Director of the Office of Management and
9 Enterprise Services for approval and payment.

10 B. All unencumbered funds remaining in the Large-scale Economic
11 Activity and Development Fund upon the expiration of the Large-scale
12 Economic Activity and Development Act of 2022 shall be transferred
13 to the State Treasurer for deposit in the General Revenue Fund.

14 C. If the Oklahoma Department of Commerce has not received a
15 binding commitment from a primary establishment for an investment
16 determined by the Department to qualify for payment under the
17 provisions of division (1) of subparagraph a of paragraph 1 of
18 subsection E of Section 3645.4 of this title by April 15, 2023, all
19 unencumbered funds remaining in the Large-scale Economic Activity
20 and Development Fund shall be transferred to the State Treasurer for
21 deposit in the General Revenue Fund of the State Treasury for the
22 fiscal year ending June 30, 2022.

23 SECTION 3. It being immediately necessary for the preservation
24 of the public peace, health or safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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