

1 ENGROSSED SENATE
2 BILL NO. 1176

By: Thompson (Roger) and Hall
of the Senate

3 and

4 Wallace and Martinez of the
5 House

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

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

18 SECTION 1. AMENDATORY Section 4, Chapter 66, O.S.L. 2022
19 (68 O.S. Supp. 2022, Section 3645.4), is amended to read as follows:

20 Section 3645.4. A. 1. There is hereby created until July 1,
21 2032, an investment rebate program for the cost of qualified capital
22 expenditures by establishments which create not less than a
23 threshold number of new direct jobs as provided in this section.

24 2. a. The threshold number of new direct jobs required for
establishments to qualify and remain qualified for

1 investment rebate payments created in paragraph 1 of
2 this subsection shall be as follows:

- 3 (1) five hundred (500) new direct jobs in year one of
4 the rebate payment period,
5 (2) one thousand (1,000) cumulative new direct jobs
6 in year two of the rebate payment period,
7 (3) two thousand five hundred (2,500) cumulative new
8 direct jobs in year three of the rebate payment
9 period,
10 (4) ~~four thousand (4,000)~~ three thousand five hundred
11 (3,500) cumulative new direct jobs in year four
12 of the rebate payment period, and
13 (5) ~~four thousand (4,000)~~ three thousand five hundred
14 (3,500) cumulative new direct jobs in year five
15 of the rebate payment period.

16 b. For establishments qualifying for investment rebate
17 payments pursuant to division (2) of subparagraph a of
18 paragraph 1 of subsection E of this section, the
19 threshold numbers provided in this paragraph shall be
20 reduced proportionally to reflect the lesser capital
21 expenditure of such establishment. Such reduction
22 shall be achieved by multiplying the thresholds in
23 paragraph 2 of this subsection by a fractional
24 equivalent equal to the following: the capital

1 expenditure plan amount of the establishment
2 qualifying pursuant to division (2) of subparagraph a
3 of paragraph 1 of subsection E of this section,
4 divided by the capital expenditure plan amount of the
5 establishment qualifying pursuant to division (1) of
6 subparagraph a of paragraph 1 of subsection E of this
7 section.

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

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

16 C. By October 1 of each year, the Oklahoma Department of
17 Commerce shall submit electronically an annual report to the Speaker
18 of the ~~Oklahoma~~ House of Representatives, the President Pro Tempore
19 of the ~~Oklahoma State~~ Senate, the Chair of the Appropriations and
20 Budget Committee of the ~~Oklahoma~~ House of Representatives, the Chair
21 of the Appropriations Committee of the ~~Oklahoma State~~ Senate, and
22 the Executive Director of the Legislative Office of Fiscal
23 Transparency detailing the program and investment rebate payments.
24

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

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

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

15 (2) Submit an application and documentation to the
16 Oklahoma Department of Commerce, as required by
17 the Department, outlining a capital expenditure
18 plan in this state associated with qualified
19 capital expenditures totaling no less than Five
20 Hundred Million Dollars (\$500,000,000.00),
21 provided a separate establishment has been
22 approved by the Oklahoma Department of Commerce
23 to participate in the investment rebate program
24 pursuant to division (1) of this subparagraph,

1 and such establishment participating pursuant to
2 division (1) of this subparagraph remains in
3 compliance with such approved application, and

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

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

16 2. Be qualified to receive payments pursuant to the provisions
17 of the Oklahoma Quality Jobs Program Act created pursuant to Section
18 3601 of Title 68 of the Oklahoma Statutes; and

19 3. Have filed all Oklahoma tax returns and tax documents
20 required by law.

21 F. 1. Notwithstanding any other provision of law, if a primary
22 establishment receives an investment rebate payment pursuant to the
23 provisions of ~~this act~~ the LEAD Act, neither the qualified
24 establishment nor its subsidiaries shall be eligible to receive the

1 credits provided for in Section 2357.4 of Title 68 of the Oklahoma
2 Statutes, in connection with the project or development for which
3 the investment rebate payment was based; provided, however, the
4 limitation provided in this paragraph, on claiming credits, shall
5 not apply to the amount of qualifying capital expenditure in excess
6 of Four Billion Five Hundred Million Dollars (\$4,500,000,000.00)
7 made by an establishment on a project or development in this state.

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

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

21 G. 1. Except as limited by paragraph 2 of this subsection, the
22 Oklahoma Department of Commerce shall approve or disapprove claims
23 for rebates and shall notify the Tax Commission subject to the
24 limitations set forth in Section ~~5 of this act~~ 3645.5 of this title.

1 Upon notification of approval from the Department, the Commission
2 shall issue payment for all approved claims from funds held in the
3 Large-scale Economic Activity and Development Fund created pursuant
4 to Section ~~6 of this act~~ 3645.6 of this title and subject to the
5 limitations set forth in Section ~~5 of this act~~ 3645.5 of this title.

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

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

15 SECTION 2. AMENDATORY Section 6, Chapter 66, O.S.L. 2022
16 (68 O.S. Supp. 2022, Section 3645.6), is amended to read as follows:

17 Section 3645.6. A. There is hereby created in the State
18 Treasury a fund for the Oklahoma Tax Commission to be designated the
19 "Large-scale Economic Activity and Development Fund", also known as
20 the "LEAD Fund". The fund shall be a continuing fund, not subject
21 to fiscal year limitations, and shall consist of all monies
22 designated for deposit to the fund by law. All monies accruing to
23 the credit of the fund are hereby appropriated and may be budgeted
24 and expended by the Tax Commission for the purpose of paying rebates

1 as provided in the Large-scale Economic Activity and Development Act
2 of 2022. Expenditures from ~~said~~ such fund shall be made upon
3 warrants issued by the State Treasurer against claims filed as
4 prescribed by law with the Director of the Office of Management and
5 Enterprise Services for approval and payment.

6 B. All unencumbered funds remaining in the Large-scale Economic
7 Activity and Development Fund upon the expiration of the Large-scale
8 Economic Activity and Development Act of 2022 shall be transferred
9 to the State Treasurer for deposit in the General Revenue Fund.

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

19 SECTION 3. It being immediately necessary for the preservation
20 of the public peace, health or safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

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1 Passed the Senate the 28th day of February, 2023.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2023.

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8 _____
9 Presiding Officer of the House
10 of Representatives