

# OKLAHOMA TAX COMMISSION

## REVENUE IMPACT STATEMENT FIRST REGULAR SESSION, FIFTY-NINTH OKLAHOMA LEGISLATURE

**DATE OF IMPACT STATEMENT:** May 10, 2023

**BILL NUMBER:** SB 1177 **STATUS AND DATE OF BILL:** Committee Sub. 5/9/2023

**AUTHORS:** House Wallace & Martinez Senate Thompson (Roger) & Hall

**TAX TYPE(S):** None **SUBJECT:** Administrative / Rebate

**PROPOSAL:** New Law

SB 1177 proposes to enact the *Perform Act* which creates an investment rebate program based on the cost of qualified capital expenditures by an establishment that creates not less than a threshold number of new direct jobs.

**EFFECTIVE DATE:** Emergency – Upon passage and approval

### REVENUE IMPACT:

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 24: No change in tax collections.

FY 25: No change in tax collections.

May 10, 2023

DATE

*Rick Miller*

DIVISION DIRECTOR

mk

5/10/2023

DATE

*Huan Gong*

HUAN GONG, ECONOMIST

5/10/2023

DATE

*Joseph P Gappa*

FOR THE COMMISSION

***The revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.***

## **ATTACHMENT TO REVENUE IMPACT STATEMENT - SB 1177 [Comm. Sub.]**

**Prepared 5/9/2023**

SB 1177 proposes to enact the *Perform Act*.<sup>1</sup> This measure proposes to create an investment rebate program based on the cost of qualified capital expenditures<sup>2</sup> by an establishment<sup>3</sup> that creates not less than a threshold number of new direct jobs.<sup>4</sup> The Oklahoma Department of Commerce (Commerce) and the Tax Commission are to administer the rebate program<sup>5</sup>.

Entities applying for the rebate must submit to Commerce an application and documentation of the following:

- a capital expenditure plan in Oklahoma associated with qualified capital expenditures totaling at least \$1 billion
- qualified capital expenditures of no less than 20% of the capital expenditure plan outlined in the approved application
- entity is qualified to receive payments under the *Oklahoma Quality Jobs Program Act* 68 O.S. § 3601
- entity filed all Oklahoma tax returns and tax documents required by law

Any establishment (including subsidiaries) that receives an investment rebate payment pursuant to the *Perform Act* is ineligible to receive the *Investment / New Jobs Credit* (68 O.S. § 2357.4) or the investment rebate payments provided under the *Large-scale Economic Activity and Development Act of 2022* (68 O.S. § 3645.1 et seq.) in connection with the project or development for which the *Perform Act* investment rebate payment was based. Additionally, no investment expenditure may be utilized for calculation purposes that result in the qualification of more than one establishment for the *Perform Act* investment rebate payments based on the same expenditure.

Subject to the approval and ongoing review of the eligibility application by Commerce, the *Perform Act* investment rebate payment will be 10% of the cost of the qualified capital expenditures; payable by the Tax Commission upon claims made by the establishment. The Tax Commission must make investment rebate payments under the *Perform Act* from the *Perform Fund*<sup>6</sup> in 5 installments of no

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<sup>1</sup> This measure is effective for investments made on or after April 1, 2023 and expires July 1, 2032.

<sup>2</sup> Qualified capital expenditures are expenditures on property in this state made after April 1, 2023 that are depreciable under Internal Revenue Code 26 U.S.C § 168, subject to verification by Commerce.

<sup>3</sup> Establishment is defined as any business including, but not limited to, a sole proprietorship, partnership, corporation, or limited liability company.

<sup>4</sup> New direct job is defined as full-time employment positions that did not exist in this state prior to the date of approval of an application made pursuant to the *Perform Act*. A job is deemed to exist in this state prior to the approval date of an application if the activities and functions for which the particular job exist have been ongoing on a full-time equivalent basis at any time within 6 months prior to the approval date;

<sup>5</sup> Commerce and the Tax Commission are granted authority to promulgate rules for the administration of the *Perform Act*. Commerce must also annually submit, by October 1 of each year, electronically a report detailing the *Perform Act* program and investment rebate payments to the President Pro Tempore of the Senate, the Chair of the Appropriations Committee of the Senate, the Speaker of the House of Representatives, the Chair of the Appropriations and Budget Committee of the House of Representatives, and the Executive Director of the Legislative Office of Fiscal Transparency

<sup>6</sup> The total amount of applications approved and investment rebate payments awarded under the *Perform Act* may not exceed the total amount of monies designated by law for deposit to the *Perform Fund*. The *Perform Fund* is established in the State Treasurer's office for the Tax Commission and is to consist of \$ 180 million of appropriated funds. This appropriation is contained in the CS for SB 1179 [SB1179 JCR.PDF \(state.ok.us\)](#)

more than \$36 million per installment<sup>7</sup>. If the capital expenditures for a previous installment claim creates a claim that exceeds \$36 million, that amount may be used to calculate a subsequent claim, subject to being capped at \$36 million per installment.

Any unencumbered funds remaining in the *Perform Fund* upon the expiration of the *Perform Act* investment rebate program must be transferred to the State Treasurer for deposit in the General Revenue Fund.

Additionally, SB 1179 proposes to appropriate \$180 million to the *Perform Fund* enacted under the *Perform Act* from any monies not otherwise appropriated from the General Revenue for the fiscal year ending June 30, 2022. The *Perform Fund* is established in the State Treasurer's office for the Tax Commission to pay investment rebate payments authorized under the *Perform Act*

This measure does not have any effect on tax collections, since the rebate payments are funded by appropriated dollars.

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<sup>7</sup> The payment of the rebates is incumbent upon the following jobs thresholds being met:

- 100 cumulative new direct jobs for the 1st investment rebate payment
- 500 cumulative new direct jobs for the 2nd investment rebate payment
- 800 cumulative new direct jobs for the 3rd and 4th investment rebate payments
- 1,400 cumulative new direct jobs for the 5th investment rebate payment

Commerce is authorized to conditionally pre-qualify and account for anticipated future investment rebate payments. Commerce may not pre-qualify investment rebate payments, encumber funds, pre-encumber funds, or otherwise allocate resources in any way that would result in the allocation of investment rebate payments in excess of the balance of available funds in the *Perform Fund*.