

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 58th Legislature (2022)

4 ENGROSSED SENATE  
5 BILL NO. 1176

By: Thompson (Roger) and Hall  
of the Senate

6 and

7 Wallace and Martinez of the  
8 House

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

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

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

24 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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4 DIRECT TO CALENDAR.

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