STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

SENATE BILL 1715

By: Leewright

AS INTRODUCED

An Act relating to income tax credit; creating the Strategic Industrial Development Enhancement Tax Credit Act; defining terms; providing credit for certain qualified expenditures for certain tax years; requiring the Oklahoma Department of Commerce to determine qualifying expenditures; authorizing sponsor to apply for credit; requiring the Department to provide form; providing requirements for the application; requiring the Department to review and make determination; authorizing the Department to allocate credit; requiring the Department to notify the Oklahoma Tax Commission under certain circumstance; limiting allocation of credit for qualifying project and certain expenditures; limiting allocation of credit in taxable year; requiring certain projects be eligible for credit in subsequent tax year; allowing unused credits to be carried over for certain time; providing for transfer of credit to certain entities; prohibiting credit to be used to reduce tax liability to less than zero; requiring the Department to promulgate rules; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.69 of Title 68, unless there is created a duplication in numbering, reads as follows:
A. This act shall be known and may be cited as the “Strategic Industrial Development Enhancement Tax Credit Act”.

B. As used in this section:

1. “Department” means the Oklahoma Department of Commerce;

2. “Eligible entity” means a limited liability company, partnership, or corporation located in this state with a qualifying project in a qualifying project location;

3. “Project sponsor” means a local economic development organization or authority exempt from taxation pursuant to the provisions of the Internal Revenue Code, 26 U.S.C., Section 501(c), port authority, industrial park, or Class II or III railroad carriers as defined in 49 CFR, Part 1201.1-1;

4. “Qualifying economic development expenditure” means an expenditure for land improvements, building construction, building improvements and expansion, port terminal improvements, and the purchase of machinery and equipment;

5. “Qualifying initial infrastructure expenditure” means an expenditure for new railroad infrastructure or improvements to existing railroad infrastructure, that includes the acquisition of right of way, project engineering, construction of new railroad including but not limited to tracks, leads, switches, spurs, and sidings, loading dock improvements, and transloading structures involved with providing freight rail service;
6. “Qualifying project” means the new construction or expansion of an eligible entity or a development generating qualified initial infrastructure expenditures to serve an eligible entity in a qualifying project location; and

7. “Qualifying project location” means a project located in an industrial park, economic development zone, or port located within a county in this state with a population of less than one hundred thousand (100,000) or a project located adjacent to a terminal or switching railroad or Class II or III railroad.

C. For tax years 2023 through 2027, there shall be allowed a credit for an eligible entity against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes, equal to an amount not to exceed ten percent (10%) of an eligible entity’s qualified economic development expenditures or fifty percent (50%) of an eligible entity’s qualified initial infrastructure expenditures, subject to the determination and allocation by the Department. Credits awarded pursuant to this subsection shall be allocated over a three-year period in equal amounts.

D. A project sponsor may apply to the Department for a qualifying project of an eligible entity using an application form provided by the Department. The application form shall require a description of the qualifying project, the project location, an itemized list of project costs, and a summary of the expected net economic benefit and job creation.
E. The Department shall review the application and make a
determination of the amount of qualified economic development
expenditures and qualified initial infrastructure expenditures that
qualify for tax credit. Tax credits may be allocated by the
Department for qualified economic development expenditures and
qualified initial infrastructure expenditures of a qualifying
project. The Department shall notify the Oklahoma Tax Commission
when an eligible entity has been allocated tax credit.

F. Total credits allocated for a qualifying project shall not exceed Six Million Dollars ($6,000,000.00). Total credit allocated
for a qualifying project shall not exceed Six Million Dollars
($6,000,000.00) for qualified economic development expenditures and
Three Million Dollars ($3,000,000.00) for qualified initial
infrastructure expenditures.

G. Credits allocated by the Department shall not exceed Twelve
Million Dollars ($12,000,000.00) in a tax year. Qualifying projects
that have submitted an application and are not allocated all or part
of credit for qualified economic development expenditures or
qualified initial infrastructure expenditures due to the tax year
limit shall be eligible for credit in subsequent tax years.

H. Any credits allowed but not used in any taxable year may be
carried over in order to each of the five (5) subsequent tax years.
Credits shall be transferrable to a customer, vendor, project
investor, or partner of an eligible entity. Credits shall not be
used to reduce the tax liability of the taxpayer to less than zero (0).

I. The Department shall promulgate rules to implement the provisions of this act.

SECTION 2. This act shall become effective July 1, 2023.

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