

1 STATE OF OKLAHOMA

2 1st Session of the 57th Legislature (2019)

3 SENATE BILL NO. 32

By: Thompson

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; authorizing
8 Department of Commerce to enter into certain
9 negotiations with respect to purchase of tax credits;
10 authorizing agreements; prescribing requirement for
11 final approval; prescribing standards for contract;
12 providing for effect of inability to reach agreement;
13 requiring certain economic benefits; requiring final
14 agreement to contain certain requirements; defining
15 terms; requiring notification to the Oklahoma Tax
16 Commission; prescribing required information
17 regarding purchased tax credits; requiring annual
18 disclosure; authorizing return of funds; providing
19 for computation of amount based on terms of
20 agreement; providing for codification; and providing
21 an effective date.

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

23 SECTION 1. NEW LAW A new section of law to be codified
24 in the Oklahoma Statutes as Section 2357.901 of Title 68, unless
there is created a duplication in numbering, reads as follows:

A. The State of Oklahoma, through the Oklahoma Department of
Commerce, shall establish a program that allows existing tax credits
to be repurchased from owners of the outstanding credits to reduce
the debt burden of the state.

1 B. Under the program, the Department of Commerce may enter into
2 agreements for the purchase of tax credits as authorized by this
3 section. Tax credits owned by a taxpayer company may be repurchased
4 by the State of Oklahoma if such an agreement is in the best
5 interest of the state and when the cost of repurchase of the credits
6 is determined to be less than the benefit to the state through the
7 resulting reinvestment of a negotiated percentage of the payment by
8 the state to the owner of the tax credits as defined in subsection C
9 of this section. Payments by the state to owners of the tax credits
10 can be made in one (1) or over multiple years, depending on the
11 terms of the agreement. Neither the state nor the owner of the tax
12 credits shall have any obligation to the other if an agreement is
13 not reached. The final approval for any tax credit purchase
14 agreement shall be subject to the availability of funds appropriated
15 by the Legislature.

16 C. The Department of Commerce shall require that the agreement
17 negotiated between the tax credit owner and the Department of
18 Commerce be beneficial to the interests of the State of Oklahoma and
19 its citizens through increased investment by the owner of the tax
20 credits in facilities, equipment and job creation resulting from the
21 use of some or all of the proceeds received for the cancellation of
22 tax credits pursuant to the terms of the agreement.

23 D. No agreement shall be finalized unless the estimated direct
24 state benefits resulting from the agreement exceed the estimated

1 direct state costs. As used in this subsection, "estimated direct
2 state benefits" means the revenues projected to accrue to the state
3 as a result of new direct jobs or investment, additional tax
4 revenues and the savings achieved through the purchase of
5 outstanding but unclaimed tax credits. As used in this subsection,
6 "estimated direct state costs" means the price paid to the owner of
7 the tax credits for the credits which are surrendered and canceled
8 pursuant to the terms of the agreement.

9 E. Within thirty (30) days of the finalization of any agreement
10 for the repurchase of tax credits authorized by the provisions of
11 this section, the former owner of the tax credits shall notify the
12 Oklahoma Tax Commission on such form as the Commission may prescribe
13 for that purpose, of the identity of the taxpayer, the type of tax
14 credit, the total amount of tax credits, including any carryover
15 credits, and such other information as the Tax Commission may
16 require so that the tax credits repurchased cannot be used to reduce
17 any future tax liability of the taxpayer or its successors in
18 interest. The approved agreement between the tax credits owner and
19 the state shall also be filed with the Commission.

20 F. The owner selling the tax credits to the State of Oklahoma
21 shall file with the state on a yearly basis documenting the benefits
22 to the state as defined in the agreement signed by the taxpayer and
23 the Department of Commerce. The information required by this
24 subsection shall be filed on a form prescribed by the Department of

1 Commerce for such purpose not later than March 15 each year related
2 to the economic benefits for the preceding calendar year.

3 G. If the former owner of the credits does not fulfill the
4 terms of the approved agreement, the state may require the return of
5 funds equal to the percentage of the agreement which was not
6 completed by the former owner of the credits.

7 SECTION 2. This act shall become effective November 1, 2019.

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