

1 STATE OF OKLAHOMA

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

3 SENATE BILL 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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