

1 ENGROSSED SENATE AMENDMENT  
TO  
2 ENGROSSED HOUSE  
BILL NO. 2978

By: Dank and Pittman of the  
House

and

Mazzei of the Senate

( revenue and taxation - allowing identification of  
certain persons - requiring creation or retention of  
jobs - tax credit - termination date - prior approval  
of certain activity - requiring audits by the State  
Auditor and Inspector - fiscal impact - effective  
date -

emergency )

AMENDMENT NO. 1. Page 1, strike the stricken title, enacting clause  
and entire bill and insert

"[ tax credits - defining terms - requiring  
preapproval - examination of reports - 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 2357.501 of Title 68, unless  
there is created a duplication in numbering, reads as follows:

A. As used in this section:

1        1. "Legal business entity" means a taxpayer which is a limited  
2 or general partnership, corporation, sole proprietorship, limited  
3 liability company or other entity whether such entity is subject to  
4 the tax levied by subsections B or D of Section 2355 of Title 68 of  
5 the Oklahoma Statutes;

6        2. "New direct job" means full-time equivalent employment in  
7 this state which employment did not exist in this state prior to the  
8 date of application for preapproval as provided in this section;

9        3. "Estimated net direct state benefits" has the same meaning  
10 as defined in Section 3603 of Title 68 of the Oklahoma Statutes; and

11        4. "Tax credit" means a method by which a legal business entity  
12 may reduce any state income tax liability pursuant to a statutory  
13 authorization allowing the tax to be reduced either by a percentage  
14 or a specific dollar amount after the applicable tax rate amount has  
15 been multiplied by the applicable tax base amount and which results  
16 in a net tax liability after the tax credit amount has been  
17 subtracted from a gross tax liability amount.

18        B. 1. The Oklahoma Department of Commerce shall conduct a  
19 preapproval cost/benefit analysis to determine whether or not  
20 activity which is expected to result directly from the granting of a  
21 tax credit by the Oklahoma Tax Commission to a legal business entity  
22 would result in any estimated net direct state benefits. The  
23 preapproval process shall be based upon an application made by the  
24 legal business entity to the Oklahoma Department of Commerce which

1 contains such information as may be deemed necessary by the Oklahoma  
2 Department of Commerce. If the Oklahoma Department of Commerce  
3 finds that the granting of a tax credit will result in any estimated  
4 net direct state benefits, a preapproval memorandum shall be issued  
5 to the legal business entity. The legal business entity shall  
6 provide a copy of the preapproval memorandum to the Tax Commission  
7 when a claim is filed for a tax credit.

8 2. After the effective date of this act, no tax credit shall be  
9 allowed by the Tax Commission to a legal business entity unless a  
10 preapproval memorandum of understanding has been provided to the Tax  
11 Commission which includes a determination that, as a direct result  
12 of the granting of the credit:

- 13 a. net direct state benefits are expected to result, and
- 14 b. at least one (1) new direct job will be created or one  
15 (1) existing job will be retained.

16 The requirement for a preapproval memorandum shall be in addition to  
17 any other statutory requirements for a particular tax credit.

18 C. 1. The Tax Commission shall provide to the State Auditor  
19 and Inspector such information pertaining to claims for tax credits  
20 as may be necessary for the State Auditor and Inspector to examine  
21 each tax credit to assess the costs and benefits to the State of  
22 Oklahoma. The State Auditor and Inspector may request from any  
23 party claiming a tax credit financial statements and profit and loss  
24 reports to determine the manner in which a tax credit was used by

1 the legal business entity. The Tax Commission shall provide such  
2 assistance as is necessary to the State Auditor and Inspector to  
3 implement the provisions of this subsection.

4 2. The State Auditor and Inspector shall annually report  
5 findings resulting from the provisions of paragraph 1 of this  
6 subsection to the Governor, President Pro Tempore of the Senate,  
7 Speaker of the House of Representatives, Chair of the Senate Finance  
8 Committee and Chair of the House Appropriations and Budget  
9 Committee.

10 SECTION 2. This act shall become effective November 1, 2012."

11 and when the title is restored, amend the title to  
12 conform

13 Passed the Senate the 23rd day of April, 2012.

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\_\_\_\_\_  
Presiding Officer of the Senate

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17 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,

18 2012.

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\_\_\_\_\_  
Presiding Officer of the House  
of Representatives

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11 the State Auditor and Inspector - fiscal impact -  
12 effective date -

13 emergency )

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

18 SECTION 3. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2357.501 of Title 68, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. As used in this section, "tax credit" means a method by  
22 which a person or entity may reduce any state tax liability pursuant  
23 to a statutory authorization allowing the tax to be reduced either  
24 by a percentage or a specific dollar amount after the applicable tax

1 rate amount has been multiplied by the applicable tax base amount  
2 and which results in a net tax liability after the tax credit amount  
3 has been subtracted from a gross tax liability amount.

4 B. Any measure providing for a tax credit shall contain  
5 provisions pursuant to which any member of the public can determine  
6 the identity of any person or entity that benefits from the tax  
7 credit after it has been claimed upon a tax return.

8 C. Any tax credit shall provide for the creation of new jobs or  
9 the retention of existing jobs within the State of Oklahoma.

10 D. With respect to each fiscal year of the state, any tax  
11 credit shall be limited based upon the total amount of credits that  
12 may be claimed by one taxpaying entity or based upon the total  
13 amount of credits that may be claimed by all taxpaying entities or  
14 both such limitations.

15 E. Any tax credit passed by the Legislature shall contain a  
16 date certain for the termination of the provisions authorizing the  
17 credit.

18 F. No economic activity that qualifies for a tax credit may  
19 occur without the project costs receiving prior approval by a state  
20 governmental entity to be designated pursuant to law enacted by the  
21 Legislature.

22 G. Transactions for which a tax credit has been authorized and  
23 which result in a reduction or potential reduction of state revenue  
24 shall be audited by the State Auditor and Inspector.

1 H. No measure containing a tax credit shall receive final  
2 passage by either chamber of the Legislature unless a detailed  
3 fiscal impact analyzing the effect of the tax credit on state  
4 revenue and upon the economy of the state is prepared. Such impact  
5 statement shall be made available to each member of the applicable  
6 chamber at least twenty-four (24) hours prior to the occurrence of  
7 the vote upon final passage of the measure.

8 I. No measure containing a tax credit shall be considered  
9 during the last five (5) days of a regular or extraordinary session  
10 of the Legislature.

11 SECTION 4. This act shall become effective July 1, 2012.

12 SECTION 5. It being immediately necessary for the preservation  
13 of the public peace, health and safety, an emergency is hereby  
14 declared to exist, by reason whereof this act shall take effect and  
15 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 14th day of March, 2012.

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4 Presiding Officer of the House of  
Representatives

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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2012.

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9 Presiding Officer of the Senate