

CS for SB 744

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**THE STATE SENATE**  
**Tuesday, March 1, 2005**

**Committee Substitute for**  
**Senate Bill No. 744**

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 744 - By: GUMM of the Senate and KIESEL of the House.

[ revenue and taxation - incentive payments - repayment of incentives - codification - 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 206.2 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. Notwithstanding any other provision of law, any person or entity who receives any incentive payment or reduction in tax liability for job creation pursuant to any provisions of law now or hereinafter enacted shall, after meeting such qualifications as may be prescribed by law, enter into a binding and enforceable job creation agreement with the Oklahoma Tax Commission. Such job creation agreement shall specify the terms of the person or entity's qualifications for any incentive payment or reduction in tax liability, whether the incentives payment or reduction in tax is derived from performance-based incentives, and the terms for recapture of the incentive payment or reduction in tax liability, pursuant to this section.

1           B. Except for payments or tax credits derived from performance-  
2 based incentives, if the Tax Commission determines that any person  
3 or entity who has entered into a job creation agreement has failed  
4 to comply with the terms of the agreement due to relocation outside  
5 the state with respect to the activity for which the incentive or  
6 reduction was granted, such person or entity may be subject to  
7 recapture of the amount of the incentive payments or reduction in  
8 tax liability. The Tax Commission may require the person or entity  
9 to repay such amounts pursuant to the following:

10           1. If the person or entity maintained operations in the state  
11 for at least one and one-half times the number of years of the term  
12 of the payment or tax credit, an amount not to exceed twenty-five  
13 percent (25%) of any amount received under the job creation  
14 agreement;

15           2. If the person or entity maintained operations in the state  
16 for at least the same number of years of the term of the payment or  
17 tax credit, an amount not to exceed fifty percent (50%) of any  
18 amount received under the job creation agreement; and

19           3. If the person or entity maintained operations in the state  
20 for less than the number of years of the term of the payment or tax  
21 credit, an amount not to exceed one hundred percent (100%) of any  
22 amount received under the job creation agreement.

1 C. If at any time during which a person or entity is still  
2 scheduled to receive payments or tax credits the person or entity no  
3 longer employs Oklahomans as provided for in the job creation  
4 agreement, said payments or tax credits shall be forfeited and the  
5 state shall be under no further obligation to make payments or honor  
6 tax credits, including payments or tax credits derived from  
7 performance-based incentives.

8 D. If a person or entity ceases to exist and the assets are  
9 transferred to a successor person or entity for less than fair  
10 market value consideration, the successor person or entity shall be  
11 subject to repayment as required by this section.

12 E. Any recapture of incentive payments authorized under the  
13 provisions of this section shall be remitted by the Tax Commission  
14 to any political subdivision in which the jobs were to be created.  
15 Such payments shall be remitted to any local trust created pursuant  
16 to Title 60 of the Oklahoma Statutes and whose primary purpose is  
17 economic or industrial development. Such payments shall be used  
18 solely for economic or industrial development projects which will  
19 lead to the creation of new direct jobs as defined in the Oklahoma  
20 Quality Jobs Program Act. In those political subdivisions where  
21 more than one local trust exists for the purpose of economic or  
22 industrial development, any payments shall be divided proportionally

1 among such trusts in the same proportion as local incentive dollars  
2 were provided to the entity or taxpayer.

3 F. The Tax Commission shall promulgate rules for the  
4 establishment of job creation agreements and for repayment,  
5 including audit and appeal procedures.

6 SECTION 2. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 206.3 of Title 68, unless there  
8 is created a duplication in numbering, reads as follows:

9 Political subdivisions of this state, including but not limited  
10 to counties, cities and towns, offering incentives to any person or  
11 entity in conjunction with any job creation agreement pursuant to  
12 Section 1 of this act, may seek repayment of incentives if such  
13 person or entity relocates outside of the political subdivision  
14 which provided incentives. Said repayment shall be pursuant to a  
15 contract executed between the person or entity and the political  
16 subdivision or agent of the political subdivision authorized to  
17 develop and execute incentive packages for job creation.

18 SECTION 3. This act shall become effective November 1, 2005.

19 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-22-05 - DO PASS,  
20 As Amended and Coauthored.