

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 744

By: Gumm

AS INTRODUCED

An Act relating to revenue and taxation; requiring certain persons or entities to enter into certain agreement; specifying contents of agreement; requiring certain persons or entities to repay amount received as incentive payments or reduction in tax liability under specified conditions and subject to certain schedule; limiting obligation of state to make payment or honor tax credits under specified circumstances; establishing liability of certain successor persons or entities; providing for allocation of recaptured incentive payments; requiring Oklahoma Tax Commission to promulgate certain rules; authorizing political subdivisions to seek repayment of incentives under certain conditions; 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 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 the Oklahoma Quality Jobs Act, Saving Quality Jobs Act, Former Military Facility Development Act, Small Employer Quality Jobs Incentive Act, Oklahoma Research and Development Incentives Act, or under Section 2357.4 of Title 68 of the Oklahoma Statutes, or pursuant to any other 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 and the terms for recapture of the incentive payment or reduction in tax liability, pursuant to this section.

B. If the Tax Commission determines that any person or entity who has entered into a job creation agreement has failed to comply with the terms of the agreement due to relocation outside the state with respect to the activity for which the incentive or reduction was granted, such person or entity may be subject to recapture of the amount of the incentive payments or reduction in tax liability. The Tax Commission may require the person or entity to repay such amounts pursuant to the following:

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

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

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

C. If at any time during which a person or entity is still scheduled to receive payments or tax credits the person or entity no longer employs Oklahomans as provided for in the job creation agreement, said payments or tax credits shall be forfeited and the state shall be under no further obligation to make payments or honor tax credits.

D. If a person or entity ceases to exist and the assets are transferred to a successor person or entity for less than fair

market value consideration, the successor person or entity shall be subject to repayment as required by this section.

E. Any recapture of incentive payments authorized under the provisions of this section shall be remitted by the Oklahoma Tax Commission to any political subdivision in which the jobs were to be created. Such payments shall be remitted to any local trust created pursuant to Title 60 of the Oklahoma Statutes and whose primary purpose is economic or industrial development. Such payments shall be used solely for economic or industrial development projects which will lead to the creation of new direct jobs as defined in the Oklahoma Quality Jobs Program Act. In those political subdivisions where more than one local trust exists for the purpose of economic or industrial development, any payments shall be divided proportionally among such trusts in the same proportion as local incentive dollars were provided to the entity or taxpayer.

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

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

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

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

