STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL 2978 By: Dank and Pittman of the House

and

Mazzei of the Senate

COMMITTEE SUBSTITUTE

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

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

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

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

B. 1. The Oklahoma Department of Commerce shall conduct a preapproval cost/benefit analysis to determine whether or not activity which is expected to result directly from the granting of a tax credit by the Oklahoma Tax Commission to a legal business entity would result in any estimated net direct state benefits. The preapproval process shall be based upon an application made by the legal business entity to the Oklahoma Department of Commerce which contains such information as may be deemed necessary by the Oklahoma Department of Commerce. If the Oklahoma Department of Commerce finds that the granting of a tax credit will result in any estimated net direct state benefits, a preapproval memorandum shall be issued to the legal business entity. The legal business entity shall

provide a copy of the preapproval memorandum to the Tax Commission when a claim is filed for a tax credit.

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

a. net direct state benefits are expected to result, and

b. at least one (1) new direct job will be created or one (1) existing job will be retained.

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

C. 1. The Tax Commission shall provide to the State Auditor and Inspector such information pertaining to claims for tax credits as may be necessary for the State Auditor and Inspector to examine each tax credit to assess the costs and benefits to the State of Oklahoma. The State Auditor and Inspector may request from any party claiming a tax credit financial statements and profit and loss reports to determine the manner in which a tax credit was used by the legal business entity. The Tax Commission shall provide such assistance as is necessary to the State Auditor and Inspector to implement the provisions of this subsection.

2. The State Auditor and Inspector shall annually report findings resulting from the provisions of paragraph 1 of this

subsection to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, Chair of the Senate Finance Committee and Chair of the House Appropriations and Budget Committee.

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

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