

1 **SENATE FLOOR VERSION**

2 April 9, 2012

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 2978

By: Dank and Pittman of the
House

6 and

7 Mazzei of the Senate

8
9 [tax credits - defining terms - requiring
10 preapproval - examination of reports - effective
11 date]

12
13 ~~BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:~~

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2357.501 of Title 68, unless
16 there is created a duplication in numbering, reads as follows:

17 A. As used in this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

6 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-3-12 - DO PASS,
7 As Amended.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24