

**Bill Summary**  
1<sup>st</sup> Session of the 57<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>SB 32</b>
<b>Version:</b>	<b>INT</b>
<b>Request No.:</b>	<b>80</b>
<b>Author:</b>	<b>Sen. Thompson</b>
<b>Date:</b>	<b>12/07/2018</b>

**Bill Analysis**

SB 32 stipulates that the Department of Commerce shall create a program whereby the state could repurchase the credit from owners of the outstanding credit. The Department would only purchase the credit if the amount is less than the state receives through the resulting reinvestment of a negotiated percentage of the payment by the state to the owner of the tax credits. The Legislature would authorize the necessary funds needed to repurchase the credits.

Owners of the repurchased credit must disclose to the Oklahoma Tax Commission within 30 days of the purchase the identity of the taxpayer, the type of tax credit, and the total amount of tax credits to preclude the former owner from utilizing the credit in the future. Furthermore, the owner must file an annual document outlining the benefits of the credit to the State of Oklahoma defined in the agreement signed by the taxpayer and the Department of Commerce. Failure to do so could result in the owner repaying the state the remaining amount of monies equal to the amount of the agreement not completed at the time.

Prepared by: Kalen Taylor

**OKLAHOMA TAX COMMISSION**

**REVENUE IMPACT STATEMENT AND/OR ADMINISTRATIVE IMPACT STATEMENT  
FIRST REGULAR SESSION, FIFTY-SEVENTH OKLAHOMA LEGISLATURE**

**DATE OF IMPACT STATEMENT:** January 8, 2019

**BILL NUMBER:** SB 32      **STATUS AND DATE OF BILL:** Introduced 12/9/18

**AUTHORS:** House n/a      Senate Thompson

**TAX TYPE (S):** Income Tax      **SUBJECT:** Credit

**PROPOSAL:** New Law

SB 32 proposes to authorize the Department of Commerce to establish a program that allows existing tax credits to be repurchased by the State of Oklahoma from owners of the outstanding credits.

**EFFECTIVE DATE:** November 1, 2019

**REVENUE IMPACT:**

Insert dollar amount (plus or minus) of the expected change in state revenues due to this proposed legislation.

FY 20: None<sup>1</sup>

FY 21: None

Jan. 8, 2019  
DATE

Rick Miller  
DIVISION DIRECTOR

mck

1-8-2019  
DATE

Huan Gong  
HUAN GONG, ECONOMIST

1-9-19  
DATE

Jim McInt  
FOR THE COMMISSION

*The estimated revenue impact provided herein is an estimate of the potential impact on the collection or apportionment of tax revenues affected by the proposed legislation. It is not intended to be an estimate of the overall fiscal impact on the state budget if the proposed legislation is enacted.*

<sup>1</sup> The final approval for any tax credit purchase agreement is subject to the availability of funds appropriated by the Legislature; therefore, no impact to state revenues is expected.

## **ATTACHMENT TO REVENUE IMPACT – SB 32 [Introduced] Prepared January 8, 2019**

SB 32 proposes to authorize the Department of Commerce to establish a program that allows existing tax credits<sup>2</sup> to be repurchased by the State of Oklahoma from owners of the outstanding credits.

The Oklahoma Department of Commerce will be authorized to enter into agreements for the purchase and/or surrender and cancellation of Oklahoma tax credits. Tax credits owned by a taxpayer may be purchased by the State of Oklahoma if such an agreement is in the best interest of the State and when the cost to purchase the credits is determined to be less than the benefit to the State through an agreement to reinvest a negotiated percentage of the payment by the State to the owner of the tax credits. Payments by the State to owners of the tax credits can be made in one year or over multiple years. The final approval for any tax credit purchase agreement shall be subject to the availability of funds appropriated by the Legislature.

The agreement negotiated between the tax credit owner and the Department of Commerce must be beneficial to the interests of the State of Oklahoma through increased investment by the owner of the tax credits in facilities, equipment and job creation resulting from the use of proceeds for the purchase and/or surrender and cancellation of tax credits, and the agreement must result in a net benefit to the State.<sup>3</sup>

Within thirty (30) days of the finalization of any agreement for the purchase and/or surrender and cancellation of tax credits, the former owner of the tax credits must file a copy of the agreement with the Tax Commission disclosing the identity of the taxpayer, the type of tax credit, the total amount of tax credits, including any carryover credits and such other information as the Tax Commission may require.

The owner selling the tax credits to the State of Oklahoma must file a report with the Department of Commerce on a yearly basis, not later than March 15, documenting the benefits to the state. If the former owner of the credits does not fulfill the terms of the approved agreement, the State may require the return of funds equal to the percentage of the agreement which was not completed by the former owner of the credits.

The specific terms of each purchase agreement, including the timetable of the payments by the State to the owners of the tax credits<sup>4</sup>, is unknown. The final approval for any tax credit purchase agreement is subject to the availability of funds appropriated by the Legislature; therefore, no impact to state revenues is expected.

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<sup>2</sup> "Existing tax credits" are not defined in this proposal.

<sup>3</sup> The estimated direct state benefits resulting from the agreement must exceed the estimated direct state costs. "Estimated direct state benefits" means the revenues projected to accrue to the State as a result of new direct jobs or investment, additional tax revenues and the savings achieved through the purchase of outstanding but unclaimed tax credits. "Estimated direct state costs" means the price paid to the owner of the tax credits for the credits which are surrendered and canceled pursuant to the terms of the agreement.

<sup>4</sup> For tax year 2016, approximately \$911 million of tax credits (newly generated and amounts carried over) were claimed. Of that amount approximately \$154 million was used to offset tax or refunded to taxpayers. These amounts do not include income tax credits available only to individual income tax filers that can be classified as non-economic development type credits.