

1 **SENATE FLOOR VERSION**

2 April 18, 2024

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 3959

By: Echols and May of the House

and

Treat of the Senate

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7
8
9 An Act relating to rebate payment; creating the
10 Oklahoma Five Major Sports Leagues Rebate Program
11 Act; providing short title; providing rebate payments
12 for certain establishments related to professional
13 sports; defining term; prescribing requirements for
14 qualification for rebate payments; providing for
15 cost-benefit analysis; providing for repayment of
16 rebates based on certain circumstances; providing for
17 transfer of certain monies to the Oklahoma Quick
18 Action Closing Fund; prescribing procedures for
19 claims; providing for cessation of payments under
20 certain circumstances; imposing maximum limit on
21 rebate payments; prescribing method of payment;
22 creating the Oklahoma Five Major Sports Leagues
23 Rebate Payment Fund; providing for apportionment of
24 revenues; providing for expenditures and prescribing
procedures related thereto; providing for
noncodificaton; 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 not to be
codified in the Oklahoma Statutes reads as follows:

1 This act shall be known and may be cited as the "Oklahoma Five
2 Major Sports Leagues Rebate Program Act".

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 3951 of Title 68, unless there
5 is created a duplication in numbering, reads as follows:

6 A. An establishment which meets the qualifications specified in
7 the Oklahoma Five Major Sports Leagues Rebate Program Act may
8 receive quarterly rebate payments from the Oklahoma Tax Commission
9 pursuant to the provisions of the Oklahoma Quality Jobs Program Act;
10 provided, such an establishment defined or classified in the NAICS
11 Manual under U.S. Industry No. 711211 (2007 version) and which is a
12 professional sports team from one of the five major sports leagues
13 (National Football League, or NFL; National Basketball Association,
14 or NBA; National Hockey League, or NHL; Major League Baseball, or
15 MLB; and Major League Soccer, or MLS) may receive quarterly rebate
16 payments for the period of time that the establishment is located
17 and performs in this state. The amount of payment shall be equal to
18 the net benefit rate multiplied by the actual gross payroll of
19 sports-league jobs for a calendar quarter as verified by the
20 Oklahoma Employment Security Commission.

21 1. Any establishment or entity with a NAICS code classified as
22 711211 and which is a professional sports team from one of the five
23 major sports leagues (NFL, NBA, NHL, MLB, and MLS) that entered into
24 a contract for the Quality Jobs Incentive Program with the Oklahoma

1 Department of Commerce shall only be eligible to qualify for this
2 program once the Quality Jobs contract expires or is terminated.

3 2. Based upon the effective date upon which the first rebate
4 payment is to be received, an establishment or entity may receive
5 quarterly rebate payments. However, the total yearly (or four
6 consecutive) rebate payments shall not exceed Ten Million Dollars
7 (\$10,000,000.00) in any single year.

8 3. As used in this act, "sports-league jobs" means:

9 a. full-time-equivalent employment in this state in an
10 establishment which has qualified to receive a payment
11 pursuant to the provisions of the Oklahoma Five Major
12 Sports Leagues Rebate Program Act, and

13 b. shall include full-time-equivalent employment in this
14 state of employees who are employed by an employment
15 agency or similar entity other than the establishment
16 which has qualified to receive a payment and who are
17 leased or otherwise provided under contract to the
18 qualified establishment if the job otherwise qualifies
19 as a sports-league job.

20 Sports-league jobs shall not include compensation paid to an
21 employee or independent contractor for an athletic contest conducted
22 in the state if the compensation is paid by an entity that does not
23 have its principal place of business in the state or that does not
24 own real or personal property having a market value of at least One

1 Million Dollars (\$1,000,000.00) located in the state, and the
2 employees or independent contractors of such entity are compensated
3 to compete against the employees or independent contractors of an
4 establishment that qualifies for rebate payments pursuant to this
5 act and which is organized under Oklahoma law or that is lawfully
6 registered to do business in the state and which does have its
7 principal place of business located in the state and owns real or
8 personal property having a market value of at least One Million
9 Dollars (\$1,000,000.00) located in the state.

10 B. In order to receive rebate payments, an establishment shall
11 apply to the Oklahoma Department of Commerce. The application shall
12 be on a form prescribed by the Department and shall contain such
13 information as may be required by the Department to determine if the
14 applicant is qualified.

15 C. Except as otherwise provided by this section, in order to
16 qualify to receive payments, the establishment applying shall be
17 required to:

18 1. Have an annual gross payroll for sports-league jobs
19 projected by the Department to equal or exceed Ten Million Dollars
20 (\$10,000,000.00) within one (1) year of the first complete calendar
21 quarter following the start date; and

22 2. Have a number of full-time-equivalent employees subject to
23 the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes
24 and working an annual average of thirty (30) or more hours per week

1 in sports-league jobs located in this state equal to or in excess of
2 eighty percent (80%) of the total number of sports-league jobs.

3 D. Upon approval of an application, the Department shall notify
4 the Tax Commission and shall provide it with a copy of the contract
5 and the results of the cost-benefit analysis. The Tax Commission
6 may require the qualified establishment to submit additional
7 information as may be necessary to administer the provisions of the
8 Oklahoma Five Major Sports Leagues Rebate Program Act. The approved
9 establishment shall file quarterly claims with the Tax Commission
10 and shall continue to file such quarterly claims during the period
11 in which the establishment or entity from one of the five major
12 sports leagues is located and performs in this state to show its
13 continued eligibility for rebate payments, or until it is no longer
14 qualified to receive rebate payments. The establishment or entity
15 may be audited by the Tax Commission to verify eligibility. Once
16 the establishment or entity is approved, an agreement shall be
17 deemed to exist between the establishment and this state, requiring
18 the continued rebate payment to be made as long as the establishment
19 or entity retains its eligibility as defined in and established
20 pursuant to this section and within the limitations contained in the
21 Oklahoma Five Major Sports Leagues Rebate Program Act, which existed
22 at the time of approval. An establishment or entity described in
23 this subsection shall be required to repay all rebate payments
24 received under the Oklahoma Five Major Sports Leagues Rebate Program

1 Act if the establishment or entity is determined by the Tax
2 Commission to no longer have business operations in the state within
3 three (3) years from the beginning of the calendar quarter for which
4 the first rebate payment claim is filed.

5 E. For any contract executed by an establishment or entity
6 pursuant to this act, five percent (5%) of the quarterly rebate
7 payment amount shall be transferred by the Tax Commission to the
8 Oklahoma Quick Action Closing Fund.

9 SECTION 3. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 3952 of Title 68, unless there
11 is created a duplication in numbering, reads as follows:

12 A. As soon as practicable after the end of the first complete
13 calendar quarter following the start date, the establishment or
14 entity shall file a claim for the payment with the Oklahoma Tax
15 Commission and shall specify the actual number and gross payroll of
16 sports-league jobs for the establishment or entity for the calendar
17 quarter. The Tax Commission shall verify the actual gross payroll
18 for sports-league jobs for the establishment for such calendar
19 quarter. If the Tax Commission is not able to provide verification
20 utilizing all available resources, the Tax Commission may request
21 additional information from the establishment or entity as may be
22 necessary or may request the establishment to revise its claim. An
23 establishment or entity may file for an extension of the initial
24 filing date with the Oklahoma Department of Commerce. Any such

1 extension shall be based solely upon an extraordinary adverse
2 business circumstance which prevented the establishment or entity
3 from hiring the sports-league jobs as projected. If an
4 establishment or entity fails to file claims as required by this
5 section, it shall forfeit the right to receive any rebate payments
6 after one (1) year from the start date. If an establishment or
7 entity has filed at least one claim pursuant to this section but
8 fails to file another claim within two (2) years of the most recent
9 claim, the Tax Commission, after consulting with the Oklahoma
10 Department of Commerce, may dismiss the establishment from the
11 program, forfeiting the right of the establishment or entity to
12 receive rebate payments based on that contract.

13 B. If the actual verified gross payroll for four (4)
14 consecutive calendar quarters does not equal or exceed the
15 applicable total required by this act within three (3) years of the
16 start date, or does not equal or exceed the applicable total
17 required by Section 3604 of Title 68 of the Oklahoma Statutes at any
18 other time during the entire period after the start date for
19 establishments defined or classified in the NAICS Manual under U.S.
20 Industry No. 711211 (2007 version) and which are a professional
21 sports team from one of the five major sports leagues (NFL, NBA,
22 NHL, MLB, and MLS), the rebate payments shall not be made and shall
23 not be resumed until such time as the actual verified gross payroll
24 equals or exceeds the applicable amounts specified in Section 3604

1 of Title 68 of the Oklahoma Statutes. If an establishment fails to
2 achieve the required gross payroll within three (3) years of the
3 start date, the establishment shall not make a new or renewal
4 application for rebate payments authorized pursuant to the Oklahoma
5 Five Major Sports Leagues Rebate Program Act for a period of twelve
6 (12) months from the last day of the last month of the three-year
7 period during which the required gross payroll amount was not
8 achieved.

9 C. In no event shall rebate payments cumulatively exceed the
10 estimated net direct state benefits or Ten Million Dollars
11 (\$10,000,000.00) in four (4) consecutive quarters.

12 D. As soon as practicable after verification of the actual
13 gross payroll as required by this section, the Tax Commission shall
14 issue a warrant to the establishment in the amount of the net
15 benefit rate multiplied by the actual gross payroll as determined
16 pursuant to subsection A of this section for the calendar quarter.

17 SECTION 4. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 3953 of Title 68, unless there
19 is created a duplication in numbering, reads as follows:

20 There is hereby created within the State Treasury a special fund
21 for the Oklahoma Tax Commission to be designated the "Oklahoma Five
22 Major Sports Leagues Rebate Payment Fund". The Tax Commission is
23 hereby authorized and directed to withhold a portion of the taxes
24 levied and collected pursuant to Section 2355 of Title 68 of the

1 Oklahoma Statutes for deposit into the fund. The amount deposited
2 shall equal the sum of an amount determined by multiplying the net
3 benefit rate provided by the Oklahoma Department of Commerce by the
4 gross payroll as determined pursuant to the provisions of this act.
5 All the amounts deposited in the fund shall be used and expended by
6 the Tax Commission solely for the purposes and in the amounts
7 authorized by the Oklahoma Five Major Sports Leagues Rebate Program
8 Act. The liability of the State of Oklahoma to make the rebate
9 payments under this act shall be limited to the balance contained in
10 the fund created by this section.

11 SECTION 5. This act shall become effective November 1, 2024.

12 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
13 April 18, 2024 - DO PASS AS AMENDED BY CS
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