

BILL SUMMARY
1st Session of the 57th Legislature

Bill No.:	HB 2635
Version:	INT
Request Number:	7609
Author:	Rep. Echols
Date:	3/8/2019
Impact:	Tax Commission:
	\$0

Research Analysis

HB2635, as introduced, establishes a framework for the state to purchase outstanding tax credits in order to reduce the debt burden of the state. The tax credit purchase program will be administered by the Oklahoma Department of Commerce, provided any contract to execute a purchase and/or surrender and cancellation agreement of tax credits is subject to the availability of funds appropriated by the Legislature.

Prepared By: Quyen Do

Fiscal Analysis

Analysis provided by the Tax Commission:

HB 2635 proposes to authorize the Department of Commerce to establish a program that allows outstanding tax credits² to be purchased by the State of Oklahoma from owners of the outstanding tax credits.

The Oklahoma Department of Commerce is 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 the proceeds received for the purchase and/or surrender and cancellation of tax credits, and the agreement must result in a net benefit to the State.³

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 credits⁴, 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.

² "Outstanding tax credits" means credits against the tax imposed by 68 O.S. § 2355 Statutes which have been claimed, but not used, by a taxpayer and are eligible to be carried forward to a tax year during which a payment will be made pursuant to an agreement authorized by this section

³ 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.

⁴ 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.

Prepared By: Mark Tygret

Other Considerations

None.