

Fiscal Impact
1st Session of the 57th Legislature

Bill No.:
Version:
Author:
Date:

HB 2635
ENGR
Sen. Thompson
04/01/2019

Fiscal Analysis

FY'20 Impact: None expected

Full Year Impact: None expected

The Department of Commerce is authorized to enter into agreements for the purchase and/or surrender and cancellation of OK tax credits. Tax credits may be purchased 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 credit. Payments by the State can be made in one year or over multiple years. The final approval for any tax credit purchase agreement will be subject to the availability of funds appropriated by the Legislature.

Prepared by: Oklahoma Tax Commission

OKLAHOMA TAX COMMISSION

REVENUE IMPACT STATEMENT FIRST REGULAR SESSION, FIFTY-SEVENTH OKLAHOMA LEGISLATURE

DATE OF IMPACT STATEMENT: March 26, 2019

BILL NUMBER: HB 2635 STATUS AND DATE OF BILL: Engrossed Bill 3/11/19

AUTHORS: House Echols Senate Thompson

TAX TYPE (S): Income Tax SUBJECT: Credit

PROPOSAL: New Law

HB 2635 proposes to authorize the Department of Commerce to establish a program that allows outstanding tax credits to be purchased by the State of Oklahoma from owners of the outstanding tax credits if the agreement is 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 results in a net benefit to the State.

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: None¹

FY 21: None

Mar. 27, 2019
DATE

Rick Miller
DIVISION DIRECTOR

mck

3-27-2019
DATE

Huan Gong
HUAN GONG, ECONOMIST

3-29-19
DATE

Jimmy M. T.
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.

¹ 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 – HB 2635 [Engrossed] Prepared March 26, 2019

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.