

STATE OF OKLAHOMA

1st Session of the 57th Legislature (2019)

HOUSE BILL 2635

By: Echols

AS INTRODUCED

An Act relating to revenue and taxation; requiring establishment of specified program through Oklahoma Department of Commerce to purchase outstanding tax credits; defining term; authorizing certain agreements and specifying conditions pertaining thereto; providing for effect of inability to reach agreement; prescribing requirement for final approval; requiring certain agreement to have specified economic benefits; requiring final agreement to meet certain standard; defining terms; requiring certain notification to the Oklahoma Tax Commission and prescribing contents thereof; requiring certain annual disclosure prior to certain date; authorizing return of funds under certain conditions; 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 to be codified in the Oklahoma Statutes as Section 2357.901 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The State of Oklahoma, through the Oklahoma Department of Commerce, shall establish a program that allows outstanding tax credits to be purchased from owners of the outstanding credits to

1 reduce the debt burden of the state. For the purposes of this
2 section, "outstanding tax credits" means credits against the tax
3 imposed by Section 2355 of Title 68 of the Oklahoma Statutes which
4 have been claimed, but not used, by a taxpayer and are eligible to
5 be carried forward to a tax year during which a payment will be made
6 pursuant to an agreement authorized by this section.

7 B. Under the program, the Department of Commerce may enter into
8 agreements for the purchase and/or surrender and cancellation of tax
9 credits as authorized by this section. Tax credits owned by a
10 taxpayer may be purchased by the State of Oklahoma if such an
11 agreement is in the best interest of the state and when the cost of
12 purchase of the credits is determined to be less than the benefit to
13 the state through an agreement to reinvest a negotiated percentage
14 of the payment by the state to the owner of the tax credits as
15 provided in subsection C of this section. Payments by the state to
16 owners of the tax credits can be made in one (1) year or over
17 multiple years, depending on the terms of the agreement. Neither
18 the state nor the owner of the tax credits shall have any obligation
19 to the other if an agreement is not reached. The final approval for
20 any tax credit purchase agreement shall be subject to the
21 availability of funds appropriated by the Legislature.

22 C. The Department of Commerce shall require that the agreement
23 negotiated between the tax credit owner and the Department of
24 Commerce be beneficial to the interests of the State of Oklahoma and

1 its citizens through increased investment by the owner of the tax
2 credits in facilities, equipment and job creation resulting from the
3 use of some or all of the proceeds received for purchase and/or
4 surrender and cancellation of tax credits pursuant to the terms of
5 the agreement.

6 D. No agreement shall be finalized unless the estimated direct
7 state benefits resulting from the agreement exceed the estimated
8 direct state costs. As used in this subsection, "estimated direct
9 state benefits" means the state tax revenues projected to accrue to
10 the state as a result of new direct jobs or investment funded
11 through the proceeds of the purchase and/or surrender and
12 cancellation of outstanding tax credits. As used in this
13 subsection, "estimated direct state costs" means the price paid to
14 the owner of the tax credits pursuant to the terms of the agreement.

15 E. Within thirty (30) days of the finalization of any agreement
16 for the purchase and/or surrender and cancellation of tax credits
17 authorized by the provisions of this section, the former owner of
18 the tax credits shall notify the Oklahoma Tax Commission on such
19 form as the Commission may prescribe for that purpose the identity
20 of the taxpayer, the type of tax credit, the total amount of tax
21 credits, including any carryover credits, and such other information
22 as the Tax Commission may require so that the tax credits purchased
23 cannot be used to reduce any future tax liability of the taxpayer or
24 its successors in interest. The approved agreement between the

1 owner of the tax credits and the state shall also be filed with the
2 Commission.

3 F. The owner selling the tax credits to the State of Oklahoma
4 shall file with the state on a yearly basis on a form prescribed
5 herein documenting the benefits to the state as defined in the
6 agreement signed by the taxpayer and the Department of Commerce.
7 The information required by this subsection shall be filed, not
8 later than March 15 each year, on a form prescribed by the
9 Department of Commerce for such purpose related to the economic
10 benefits for the preceding calendar year.

11 G. If the former owner of the credits does not fulfill the
12 terms of the approved agreement, the state may require the return of
13 funds equal to the percentage of the agreement which was not
14 completed by the former owner of the credits.

15 SECTION 2. This act shall become effective November 1, 2019.

16

17 57-1-7609 MAH 01/12/19

18

19

20

21

22

23

24