

# An Act

ENROLLED HOUSE  
BILL NO. 1568

By: Echols and Cockroft of the  
House

and

Thompson of the Senate

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.

SUBJECT: Revenue and taxation

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 reduce the debt burden of the state. For the purposes of this section, "outstanding tax credits" means credits against the tax imposed by Section 2355 of Title 68 of the Oklahoma 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.

B. Under the program, the Department of Commerce may enter into agreements for the purchase and/or surrender and cancellation of tax credits as authorized by this section. 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 of purchase of 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 as provided in subsection C of this section. Payments by the state to owners of the tax credits can be made in one (1) or over multiple years, depending on the terms of the agreement. Neither the state nor the owner of the tax credits shall have any obligation to the other if an agreement is not reached. The final approval for any tax credit purchase agreement shall be subject to the availability of funds appropriated by the Legislature.

C. The Department of Commerce shall require that the agreement negotiated between the tax credit owner and the Department of Commerce be beneficial to the interests of the State of Oklahoma and its citizens through increased investment by the owner of the tax credits in facilities, equipment and job creation resulting from the use of some or all of the proceeds received for purchase and/or surrender and cancellation of tax credits pursuant to the terms of the agreement.

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

E. Within thirty (30) days of the finalization of any agreement for the purchase and/or surrender and cancellation of tax credits authorized by the provisions of this section, the former owner of the tax credits shall notify the Oklahoma Tax Commission on such form as the Commission may prescribe for that purpose, of 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 so that the tax credits purchased cannot be used to reduce any future tax liability of the taxpayer or its successors in interest. The approved agreement between the tax credits owner and the state shall also be filed with the Commission.

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

G. 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.

SECTION 2. This act shall become effective November 1, 2018.

Passed the House of Representatives the 3rd day of May, 2018.

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Presiding Officer of the House  
of Representatives

Passed the Senate the 25th day of April, 2018.

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Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_

Approved by the Governor of the State of Oklahoma this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this \_\_\_\_\_

day of \_\_\_\_\_, 20\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

By: \_\_\_\_\_