

1 ENGROSSED HOUSE  
2 BILL NO. 2635

By: Echols of the House

and

Thompson of the Senate

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7 An Act relating to revenue and taxation; requiring  
8 establishment of specified program through Oklahoma  
9 Department of Commerce to purchase outstanding tax  
10 credits; defining term; authorizing certain  
11 agreements and specifying conditions pertaining  
12 thereto; providing for effect of inability to reach  
13 agreement; prescribing requirement for final  
14 approval; requiring certain agreement to have  
15 specified economic benefits; requiring final  
16 agreement to meet certain standard; defining terms;  
17 requiring certain notification to the Oklahoma Tax  
18 Commission and prescribing contents thereof;  
19 requiring certain annual disclosure prior to certain  
20 date; authorizing return of funds under certain  
21 conditions; providing for codification; and providing  
22 an effective date.

23 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

24 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 Passed the House of Representatives the 11th day of March, 2019.

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Presiding Officer of the House  
of Representatives

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Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2019.

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Presiding Officer of the Senate

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