

ENGROSSED HOUSE  
BILL NO. 1680

By: Johnson, Hyman, Roan,  
Shoemake, Walker, Hilliard  
and McMullen of the House

and

Gumm of the Senate

( revenue and taxation - amending 68 O.S., Section  
2357.25 - tax credits - agricultural cooperatives  
and associations - codification -  
effective date )

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.25, is  
amended to read as follows:

Section 2357.25 A. There shall be allowed a credit against the  
tax imposed by Section 2355 of ~~Title 68 of the Oklahoma Statutes~~  
this title for direct investments by Oklahoma agricultural producers  
in Oklahoma producer-owned agricultural processing cooperatives,  
Oklahoma producer-owned agricultural processing ventures, or  
Oklahoma producer-owned agricultural processing marketing  
associations created and designed to develop and advance the  
production, processing, handling and marketing of agricultural  
commodities grown, made or manufactured in Oklahoma. For calendar  
years 1997 and 1998, the amount of the credit shall be thirty  
percent (30%) of the amount of the investment by the Oklahoma  
agricultural producer in Oklahoma producer-owned agricultural  
processing cooperatives, ventures, or marketing associations.

For calendar year 1999, and all subsequent years, the credit  
percentage, not to exceed thirty percent (30%), shall be adjusted  
annually so that the total estimate of credits does not exceed ~~One~~

~~Million Dollars (\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00)

annually. The formula to be used for the percentage adjustment shall be thirty percent (30%) times ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00) divided by the credits claimed in the preceding year. In no event shall the credit be claimed more than once by a taxpayer each taxable year.

In the event the total tax credits authorized by this section exceed ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00) in any calendar year, the Oklahoma Tax Commission shall permit any excess over ~~One Million Dollars (\$1,000,000.00)~~ Two Million Dollars (\$2,000,000.00) but shall factor such excess into the percentage adjustment formula for subsequent years.

B. If the credit allowed pursuant to this section exceeds the amount of state income taxes due or if there are no state income taxes due on the income of the taxpayer, the amount of credit allowed but not used in any taxable year may be carried forward as a credit against subsequent income tax liability for a period not exceeding six (6) years following the year in which the investment was originally made.

C. The Oklahoma Tax Commission shall have the authority to prescribe forms for purposes of claiming the credit authorized by this section. The Oklahoma Tax Commission shall be authorized to conduct an investigation of the relevant facts as may be required in order to verify the eligibility of a claimant to receive a credit for any applicable income tax year.

D. 1. For any taxable year during which a taxpayer sells or otherwise disposes of the ownership interest for which a tax credit has previously been allowed to the taxpayer or for which a tax credit will be allowed to the taxpayer for the year in which the sale or other disposition of the ownership interest is made, the taxpayer shall be required to reduce the cost of the ownership interest in the Oklahoma producer-owned agricultural processing

cooperative, venture, or marketing association, as reported upon the applicable income tax return, by the amount of the tax credit which has previously been granted or for which the taxpayer is claiming credit if the credit is allowable for the year during which the sale or other disposition is made.

2. If a taxpayer sells or otherwise disposes of an ownership interest in the Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association for which the tax credit authorized by this section may be taken in a taxable year following the year in which the ownership interest in the Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association is sold or otherwise disposed of, the credit authorized by this section shall be reduced to account for the prior sale or other disposition.

E. The tax credit authorized by this section shall not be available or taken for any calendar year during which the claimant of the credit received any incentive payments pursuant to the Oklahoma Quality Jobs Program Act or the Saving Quality Jobs Act.

F. As used in this section:

1. "Direct investment" means the payment of money in an Oklahoma producer-owned agricultural processing cooperative, venture, or marketing association or the transfer of any form of economic value, whether tangible or intangible, other than money;

2. "Oklahoma producer-owned agricultural processing cooperative" means a legal entity in the nature of a partnership or business undertaking agricultural transactions or agricultural commercial enterprises for mutual profit which are owned and controlled by Oklahoma agricultural producers. An Oklahoma producer-owned agricultural processing cooperative requires a community of interest in the performance of the undertaking, transaction or enterprise, a right to direct and govern the policy in connection therewith and the duty, which may be altered by

agreement, to share both in profit and losses. The term does not include a cooperative that provides only, and nothing more than, storage, cleaning, or transportation of agricultural commodities;

3. "Oklahoma producer-owned agricultural processing venture" means a legal entity in the nature of a corporation or company organized to invest in or operate an agricultural commodity processing facility operated primarily for the processing or production of marketable products from agricultural commodities. The term shall include a dairy operation that requires a depreciable investment of at least Two Hundred Fifty Thousand Dollars (\$250,000.00) and which produces milk from dairy cows. The term does not include a venture that provides only, and nothing more than, storage, cleaning, or transportation of agricultural commodities;

4. "Oklahoma producer-owned agricultural processing marketing association" means a legal entity owned by Oklahoma producers of agricultural commodities and organized to jointly market agricultural commodities and/or natural resource-based recreational activities, facilitate the marketing process and to promote and stimulate the processing, sales, and marketing of agricultural commodities. The term does not include a marketing association that provides only, and nothing more than, storage, cleaning, or transportation of agricultural commodities and/or marketing of natural resource-based recreational activities;

5. "Oklahoma agricultural producer" means any person who produces agricultural commodities in this state;

6. "Agricultural commodities" means a farm or ranch product, including but not limited to, wheat, corn, soybeans, cotton, timber, cattle, hogs, sheep, horses, poultry, animals of the families bovidae, cervidae and antilocapridae or birds of the ratite group produced in farming or ranching operations or a product of such crop or livestock in its unmanufactured state such as ginned cotton,

wool-dip, maple syrup, milk and eggs, or any other commodity listed under any Industry Group Number under Major Group 20 of Division D of the Standard Industrial Classification (SIC) Manual; and

7. "Dairy operation" means and includes equipment and facilities to store and prepare feed, dairy cows, milking parlors, bulk cooling tanks, buildings, and all such depreciable investment commonly utilized in the dairy industry.

G. For purposes of this section, an agricultural commodity shall be deemed to be produced within this state if it is substantially produced, by any person, partnership, company, association or corporation:

1. Authorized to do and doing business under the laws of this state;

2. Paying all taxes duly assessed; and

3. Domiciled within this state by having a location of production within this state.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2327.25A of Title 68, unless there is created a duplication in numbering, reads as follows:

No recreational activities group as described in Section 1 of this act can receive more than fifteen percent (15%) of the tax credits allowed under this act.

SECTION 3. This act shall become effective January 1, 2006.

Passed the House of Representatives the 24th day of February,  
2005.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2005.

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Presiding Officer of the Senate