

1 ENGROSSED SENATE AMENDMENT  
TO  
2 ENGROSSED HOUSE  
BILL NO. 4085 By: Wallace and Dempsey of the  
3 House  
4 and  
5 Howard of the Senate  
6  
7

8 An Act relating to revenue and taxation; creating the  
9 Oklahoma Rural Jobs Act; defining terms; establishing  
requirements; establishing application process;  
10 providing for a tax credit; establishing an  
authorization amount limit; establishing investment  
11 requirements; allowing for lapse in certification  
creating a credit; allowing for transfer of credit;  
12 providing for recapture of credits; determining how  
recaptured credits are to be allocated; creating a  
13 program exit process; creating ownership limitations;  
creating reporting requirements; establishing a  
14 sunset date; providing for codification; and  
providing an effective date.

15  
16  
17 AUTHOR: Add the following House Coauthor: Lowe (Dick)

18 AUTHOR: Add the following Senate Coauthors: Jech and Kirt

19 AMENDMENT NO. 1. Page 1, strike the title, enacting clause and  
entire bill and insert

20 "[ revenue and taxation - Oklahoma Rural Jobs Act -  
21 application process - tax credit - program exit process  
- sunset date - codification - effective date ]

22  
23  
24 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1       SECTION 1.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3930 of Title 68, unless there  
3 is created a duplication in numbering, reads as follows:

4       This act shall be known and may be cited as the "Oklahoma Rural  
5 Jobs Act".

6       SECTION 2.       NEW LAW       A new section of law to be codified  
7 in the Oklahoma Statutes as Section 3931 of Title 68, unless there  
8 is created a duplication in numbering, reads as follows:

9       As used in this act:

10       1. "Affiliate" means an entity that directly, or indirectly  
11 through one or more intermediaries, controls, or is controlled by,  
12 or is under the common control with another entity. An entity is  
13 controlled by another entity if the controlling entity holds,  
14 directly or indirectly, the majority of voting or ownership interest  
15 in the controlled entity or has control over day-to-day operations  
16 of the controlled entity by contract or by law;

17       2. "Applicable percentage" means zero percent (0%) for the  
18 first two credit allowance dates, and fifteen percent (15%) for the  
19 next four credit allowance dates;

20       3. "Capital investment" means any equity investment in a rural  
21 fund by a rural investor which:

22           a. is acquired after the effective date of this act at  
23 its original issuance solely in exchange for cash,  
24

1           b.    has one hundred percent (100%) of its cash purchase  
2                price used by the rural fund to make qualified  
3                investments in eligible businesses located in this  
4                state by the third anniversary of the initial credit  
5                allowance date, and

6           c.    is designated by the rural fund as a capital  
7                investment under this act and is certified by the  
8                Department under the provisions of Section 3 of this  
9                act. This shall include any capital investment that  
10              does not meet the provisions of paragraph 1 of  
11              subsection A of Section 3 of this act, if such  
12              investment was a capital investment in the hands of a  
13              prior holder;

14        4.    "Credit allowance date" means the date on which the  
15   Department certifies a rural fund's capital investment and each of  
16   the five anniversary dates of such date thereafter;

17        5.    "Department" means the Oklahoma Department of Commerce;

18        6.    "Eligible business" means a business that, at the time of  
19   the initial qualified investment in the business:

20           a.    has fewer than two hundred fifty employees, and

21           b.    has its principal business operations in the state.

22        Any business which is classified as an eligible business at the  
23   time of the initial investment in such business by a rural fund  
24   shall remain classified as an eligible business and may receive

1 follow-on investments from any rural fund, and such follow-on  
2 investments shall be qualified investments even though such business  
3 may not meet the definition of an eligible business at the time of  
4 such follow-on investment;

5 7. "Principal business operations" means the location where at  
6 least sixty percent (60%) of a business's employees work or where  
7 employees who are paid at least sixty percent (60%) of such  
8 business's payroll work. A business that has agreed to relocate  
9 employees using the proceeds of a qualified investment to establish  
10 its principal business operations in a new location shall be deemed  
11 to have its principal business operations in such new location if it  
12 satisfied the requirements of this paragraph no later than one  
13 hundred eighty (180) days after receiving a qualified investment;

14 8. "Purchase price" means the amount paid to the rural fund  
15 that issues a capital investment which shall not exceed the amount  
16 of capital investment authority certified under the provisions of  
17 Section 3 of this act;

18 9. "Qualified investment" means any investment in an eligible  
19 business or any loan to an eligible business with a stated maturity  
20 date of at least one (1) year after the date of issuance, excluding  
21 revolving lines of credit and senior-secured debt unless the chief  
22 executive or similar officer of the eligible business certifies that  
23 the eligible business sought and was denied similar financing from a  
24 depository institution, by a rural fund; provided that, with respect

1 to any one eligible business, the maximum amount of investments made  
2 in such business by one or more rural funds, on a collective basis  
3 with all of the businesses' affiliates, with the proceeds of the  
4 capital investments, shall be the greater of twenty percent (20%) of  
5 the rural fund's capital investment authority or Six Million Five  
6 Hundred Thousand Dollars (\$6,500,000.00), exclusive of investments  
7 made with repaid or redeemed investments or interest or profits  
8 realized thereon;

9 10. "Rural area" means any county of this state that has a  
10 population of less than seventy-five thousand (75,000) or any city  
11 or town of this state that has a population not to exceed seven  
12 thousand (7,000) according to the 2020 Federal Decennial Census of  
13 the United States;

14 11. "Rural fund" means an entity certified by the Department  
15 under the provisions of Section 3 of this act;

16 12. "Rural investor" means an entity that makes a capital  
17 investment in a rural fund;

18 13. "Senior-secured debt" means any loan that is secured by a  
19 first mortgage on real estate with a loan-to-value ratio of less  
20 than eighty percent (80%); and

21 14. "State tax liability" means any liability incurred by any  
22 entity subject to the state income tax imposed under Title 68 of the  
23 Oklahoma Statutes or an insurance company paying an annual tax on  
24

1 its gross premium receipts including retaliatory tax under  
2 provisions of Title 36 of the Oklahoma Statutes.

3 SECTION 3. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3932 of Title 68, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. A rural fund that seeks to have an equity investment  
7 certified as a capital investment eligible for credits authorized  
8 under the provisions of this act shall apply to the Department. The  
9 Department shall begin accepting applications within ninety (90)  
10 days of the effective date of this act. The application shall  
11 include:

12 1. The amount of capital investment requested;

13 2. A copy of the applicant's or an affiliate of the applicant's  
14 licenses as a rural business investment company under 7 U.S.C.,  
15 Section 2009cc or as a small business investment company under 15  
16 U.S.C., Section 681, and a certificate executed by an executive  
17 officer of the applicant attesting that such license remains in  
18 effect and has not been revoked;

19 3. Evidence that, as of the date the application is submitted,  
20 the applicant or affiliates of the applicant have invested at least  
21 One Hundred Million Dollars (\$100,000,000.00) in nonpublic companies  
22 located in counties within the United States with a population of  
23 less than seventy-five thousand (75,000) according to the 2010  
24 Federal Decennial Census of the United States;

1        4. A business plan that includes a revenue-impact assessment  
2 projecting state and local tax revenue to be generated by the  
3 applicant's proposed qualified investments, prepared by a nationally  
4 recognized, third-party, independent economic forecasting firm using  
5 a dynamic economic forecasting model that analyzes the applicant's  
6 business plan over the ten (10) years following the date the  
7 application is submitted to the Department. Such plan shall include  
8 an estimate of the number of jobs created and jobs retained in this  
9 state as a result of the applicant's qualified investments; and

10        5. A nonrefundable application fee of Five Thousand Dollars  
11 (\$5,000.00) payable to the Department.

12        B. Within thirty (30) days after the receipt of a completed  
13 application, the Department shall grant or deny the application in  
14 full or in part. The Department shall deny the application if:

15        1. The applicant does not satisfy all the criteria provided  
16 under subsection A of this section;

17        2. The revenue-impact assessment submitted with the application  
18 does not demonstrate that the applicant's business plan will result  
19 in a positive fiscal impact on the state over a ten-year period that  
20 exceeds the cumulative amount of tax credits that would be issued to  
21 the applicant if the application was approved; or

22        3. The Department has already approved the maximum amount of  
23 capital investment authority under Section 4 of this act.

1 C. If the Department denies any part of the application, it  
2 shall inform the applicant of the grounds for such denial. If the  
3 applicant provides any additional information required by the  
4 Department or otherwise completes its application within fifteen  
5 (15) days of the notice of denial, the application shall be  
6 considered complete as of the original date of submission. If the  
7 applicant fails to provide the information or fails to complete its  
8 application within the fifteen-day period, the application shall  
9 remain denied and must be resubmitted with a new submission date and  
10 a new application fee.

11 D. Upon approval of an application, the Department shall  
12 certify the proposed equity investment as a capital investment  
13 eligible for credits under this act, subject to limitations laid out  
14 in Section 4 of this act. The Department shall provide written  
15 notice of the certification to the applicant which shall include the  
16 amount of the applicant's capital investment authority. The  
17 Department shall certify capital investments in the order that the  
18 application is received by the Department. Applications received on  
19 the same day shall be deemed to have been received simultaneously.  
20 For applications that are complete and received on the same day, the  
21 Department shall certify applications in proportionate percentages  
22 based upon the ratio of the amount of capital investment authority  
23 requested in all applications.

24



1       SECTION 4.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3933 of Title 68, unless there  
3 is created a duplication in numbering, reads as follows:

4       A. The Department shall certify capital investment authority  
5 under the provisions of this act in amounts that would not authorize  
6 more than Fifteen Million Dollars (\$15,000,000.00) in state tax  
7 credits to be claimed against state tax liability in any calendar  
8 year, excluding any credit amounts carried forward as provided under  
9 subsection A of Section 5 of this act. Within ninety (90) days of  
10 the applicant receiving notice of certification, the rural fund  
11 shall issue the capital investment to, and receive cash in the  
12 amount of the certified amount from a rural investor. At least ten  
13 percent (10%) of the rural investor's capital investment shall be  
14 composed of capital raised by the rural investor directly or  
15 indirectly from sources including directors, members, employees,  
16 officers, and affiliates of the rural investor, other than the  
17 amount invested by the allocatee claiming the tax credits in  
18 exchange for such allocation of tax credits. The rural fund shall  
19 provide the Department with evidence of the receipt of the cash  
20 investment within ninety-five (95) days of the applicant receiving  
21 notice of certification.

22       B. If the rural fund does not receive the cash investment and  
23 issue the capital investment within such time period following  
24 receipt of the certificate notice, the certification shall lapse and

1 the rural fund shall not issue the capital investment without  
2 reapplying to the Department for certification. Lapsed  
3 certifications shall revert to the Department and shall be reissued  
4 pro rata to applicants whose capital investment allocations were  
5 reduced in accordance with the application process provided under  
6 subsection D of Section 3 of this act.

7 C. A rural fund, before making a qualified investment, may  
8 request from the Department a written opinion as to whether the  
9 business in which it proposes to invest is an eligible business.  
10 The Department, no later than fifteen (15) business day after the  
11 date of receipt of such request, shall notify the rural fund of its  
12 determination. If the Department fails to notify the rural fund of  
13 its determination by the twentieth business day, the business in  
14 which the rural fund proposes to invest shall be deemed an eligible  
15 business.

16 SECTION 5. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 3934 of Title 68, unless there  
18 is created a duplication in numbering, reads as follows:

19 A. Upon making a capital investment in a rural fund, a rural  
20 investor shall have a right to a credit against such entity's state  
21 tax liability that may be utilized on each credit allowance date of  
22 such capital investment in an amount equal to the applicable  
23 percentage for such credit allowance date multiplied by the purchase  
24 price paid to the rural fund for the capital investment. The amount

1 of the credit claimed by a rural investor shall not exceed the  
2 amount of such entity's state tax liability for the tax year for  
3 which the credit is claimed. Any amount of credit that a rural  
4 investor is prohibited from claiming in a tax year as a result of  
5 this section may be carried forward for use in any of the five (5)  
6 subsequent tax years, but shall not be carried back to prior tax  
7 years. It is the intent of this act that a rural investor claiming  
8 a credit under this act is not required to pay any additional tax  
9 that may arise as a result of claiming such credit.

10 B. No credit claimed under the provisions of this act shall be  
11 refundable or saleable on the open market. Credits earned by or  
12 allocated to a partnership, limited liability company, or S-  
13 corporation may be allocated to the partners, members, or  
14 shareholders of such entity for their direct use in accordance with  
15 the provisions of any agreement among such partners, members, or  
16 shareholders, and a rural fund shall notify the Department of the  
17 names of the entities that are eligible to utilize transfer of a  
18 capital investment upon such allocation, change, or transfer. Such  
19 allocation shall not be considered a sale for the purpose of this  
20 section.

21 C. The Department may recapture credits from a taxpayer that  
22 claimed a credit authorized under this section if:

23 1. The rural fund does not invest sixty percent (60%) of its  
24 capital investment authority in qualified investments in this state

1 within two (2) years of the credit allowance date, and one hundred  
2 percent (100%) of its capital investment authority in qualified  
3 investments in this state within three (3) years of the credit  
4 allowance date; provided, that at least seventy percent (70%) of  
5 these initial qualified investments must be made in eligible  
6 businesses located in rural areas;

7       2. The rural fund fails to maintain qualified investments equal  
8 to ninety percent (90%) of its capital investment authority from the  
9 third anniversary until the sixth anniversary of the credit  
10 allowance date, with seventy percent (70%) of such investments  
11 maintained in eligible businesses located in rural areas. For each  
12 year the rural fund fails to maintain such investments, the  
13 Department may recapture an amount of such year's allowed credits  
14 equal to the percentage difference between ninety percent (90%) of a  
15 rural fund's capital investment authority and the actual amount of  
16 qualified investments maintained for such year. For the purposes of  
17 this subsection, a qualified investment is considered even if the  
18 qualified investment was sold or repaid so long as the rural fund  
19 reinvests an amount equal to the capital returned or recovered or  
20 repaid by the rural fund from the original investment, exclusive of  
21 any profits realized, in other qualified investments in this state  
22 within twelve (12) months of receipt of such capital. Amounts  
23 received periodically by a rural fund shall be treated as  
24 continually invested in qualified investments if the amounts are

1 reinvested in one or more qualified investments by the end of the  
2 following calendar year. A rural fund shall not be required to  
3 reinvest capital returned from qualified investments after the fifth  
4 anniversary of the credit allowance date, and such qualified  
5 investments shall be considered held continuously by the rural fund  
6 through the sixth anniversary of the credit allowance date;

7 3. Prior to the earlier of exiting the program in accordance  
8 with this act or thirty (30) days after the sixth anniversary of the  
9 credit allowance date, the rural fund makes a distribution or  
10 payment that results in the rural fund having less than one hundred  
11 percent (100%) of its capital investment authority invested in  
12 qualified investments in the state or held in cash or other  
13 marketable securities; or

14 4. The rural fund violates the provisions of Section 6 of this  
15 act, in which case the Department may recapture an amount equal to  
16 the amount of the rural fund's capital investment authority found to  
17 be in violation of such provisions.

18 For the purposes of meeting and maintaining the objectives  
19 established for investment in paragraphs 1 and 2 of this subsection,  
20 a rural fund's qualified investments shall be multiplied by a factor  
21 of one and one-quarter ( $1 \frac{1}{4}$ ) in counties with less than thirty  
22 thousand (30,000) in population and more than thirteen thousand  
23 (13,000) in population and shall be multiplied by a factor of one  
24

1 and one-half (1 1/2) in counties with a population of thirteen  
2 thousand (13,000) or less.

3 D. Recaptured credits and related capital investment authority  
4 shall revert to the Department and shall be reissued pro rata to  
5 applicants whose capital investment allocations were reduced in  
6 accordance with the application process provided under subsection D  
7 of Section 3 of this act.

8 E. No recapture shall occur until the rural fund has been given  
9 notice of noncompliance and afforded six (6) months from the date of  
10 such notice to cure the noncompliance.

11 SECTION 6. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 3935 of Title 68, unless there  
13 is created a duplication in numbering, reads as follows:

14 No eligible business that receives a qualified investment under  
15 the provisions of this act, or any affiliates or such eligible  
16 business, shall directly or indirectly:

17 1. Own or have the right to acquire an ownership interest in a  
18 rural fund or member or affiliate of a rural fund including, but not  
19 limited to, a holder of a capital investment issued by a rural fund;  
20 or

21 2. Loan to or invest in a rural fund or any member or affiliate  
22 of a rural fund including, but not limited to, a holder of capital  
23 investment issued by a rural fund, where the proceeds of such loan  
24

1 or investment are directly or indirectly used to fund or refinance  
2 the purchase of capital investments under this act.

3 SECTION 7. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3936 of Title 68, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Rural funds shall submit a report to the Department within  
7 the first fifteen (15) business days after the second and third  
8 anniversary of the initial credit allowance date. The report  
9 following the second anniversary shall provide documentation as to  
10 the investment of sixty percent (60%) of the purchase price of such  
11 capital investment in qualified investments. The report following  
12 the third anniversary shall provide documentation as to the  
13 investment of one hundred percent (100%) of the purchase price of  
14 such capital investment in qualified investments. Unless previously  
15 reported pursuant to this subsection, such reports shall also  
16 include:

17 1. The name and location of each eligible business receiving a  
18 qualified investment;

19 2. Bank statements of such rural fund evidencing each qualified  
20 investment;

21 3. A copy of the written opinion of the Department, as provided  
22 in subsection C of Section 4 of this act, or evidence that such  
23 business was an eligible business at the time of such qualified  
24 investment, as applicable;

1        4. The number of jobs created and jobs retained as a result of  
2 each qualified investment;

3        5. The average salary of positions described in paragraph 4 of  
4 this paragraph; and

5        6. Such other information as required by the Department.

6        B. For all subsequent years, rural funds shall submit an annual  
7 report to the Department within ninety (90) days of the beginning of  
8 the calendar year during the compliance period. The report shall  
9 include, but is not limited to the following:

10       1. The number of jobs created and jobs retained as a result of  
11 qualified investments;

12       2. The average annual salary of positions described in  
13 paragraph 1 of this subsection; and

14       3. Such other information as required by the Department.

15       C. On or after the sixth anniversary of the credit allowance  
16 date, a rural fund may apply to the Department to exit the program  
17 and no longer be subject to the regulation hereunder. The  
18 Department shall respond to the exit application within fifteen (15)  
19 days of receipt. In evaluating the exit application, the fact that  
20 no credits have been recaptured and that the rural fund has not  
21 received a notice of recapture that has not been cured pursuant to  
22 subsection E of Section 5 of this act shall be sufficient evidence  
23 to prove that the rural fund is eligible for exit. The Department  
24 shall not unreasonably deny an exit application submitted under this



1 section. If an exit application is denied, the notice shall include  
2 the reasons for the determination.

3 SECTION 8. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 3937 of Title 68, unless there  
5 is created a duplication in numbering, reads as follows:

6 The Department shall accept no new applications for tax credits  
7 authorized under this act after December 1, 2032.

8 SECTION 9. AMENDATORY 68 O.S. 2021, Section 205, is  
9 amended to read as follows:

10 Section 205. A. The records and files of the Oklahoma Tax  
11 Commission concerning the administration of the Uniform Tax  
12 Procedure Code or of any state tax law shall be considered  
13 confidential and privileged, except as otherwise provided for by  
14 law, and neither the Tax Commission nor any employee engaged in the  
15 administration of the Tax Commission or charged with the custody of  
16 any such records or files nor any person who may have secured  
17 information from the Tax Commission shall disclose any information  
18 obtained from the records or files or from any examination or  
19 inspection of the premises or property of any person.

20 B. Except as provided in paragraph 26 of subsection C of this  
21 section, neither the Tax Commission nor any employee engaged in the  
22 administration of the Tax Commission or charged with the custody of  
23 any such records or files shall be required by any court of this  
24 state to produce any of the records or files for the inspection of

1 any person or for use in any action or proceeding, except when the  
2 records or files or the facts shown thereby are directly involved in  
3 an action or proceeding pursuant to the provisions of the Uniform  
4 Tax Procedure Code or of the state tax law, or when the  
5 determination of the action or proceeding will affect the validity  
6 or the amount of the claim of the state pursuant to any state tax  
7 law, or when the information contained in the records or files  
8 constitutes evidence of violation of the provisions of the Uniform  
9 Tax Procedure Code or of any state tax law.

10 C. The provisions of this section shall not prevent the Tax  
11 Commission, or with respect to the Oklahoma Department of Commerce  
12 in administration of the Oklahoma Rural Jobs Act as provided by  
13 paragraph 22 of this subsection, from disclosing the following  
14 information and no liability whatsoever, civil or criminal, shall  
15 attach to any member of the Tax Commission, or the Oklahoma  
16 Department of Commerce as applicable, or any employee thereof for  
17 any error or omission in the disclosure of such information:

18 1. The delivery to a taxpayer or a duly authorized  
19 representative of the taxpayer of a copy of any report or any other  
20 paper filed by the taxpayer pursuant to the provisions of the  
21 Uniform Tax Procedure Code or of any state tax law;

22 2. The exchange of information that is not protected by the  
23 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,  
24

1 pursuant to reciprocal agreements entered into by the Tax Commission  
2 and other state agencies or agencies of the federal government;

3 3. The publication of statistics so classified as to prevent  
4 the identification of a particular report and the items thereof;

5 4. The examination of records and files by the State Auditor  
6 and Inspector or the duly authorized agents of the State Auditor and  
7 Inspector;

8 5. The disclosing of information or evidence to the Oklahoma  
9 State Bureau of Investigation, Attorney General, Oklahoma State  
10 Bureau of Narcotics and Dangerous Drugs Control, any district  
11 attorney or agent of any federal law enforcement agency when the  
12 information or evidence is to be used by such officials to  
13 investigate or prosecute violations of the criminal provisions of  
14 the Uniform Tax Procedure Code or of any state tax law or of any  
15 federal crime committed against this state. Any information  
16 disclosed to the Oklahoma State Bureau of Investigation, Attorney  
17 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs  
18 Control, any district attorney or agent of any federal law  
19 enforcement agency shall be kept confidential by such person and not  
20 be disclosed except when presented to a court in a prosecution for  
21 violation of the tax laws of this state or except as specifically  
22 authorized by law, and a violation by the Oklahoma State Bureau of  
23 Investigation, Attorney General, Oklahoma State Bureau of Narcotics  
24 and Dangerous Drugs Control, district attorney or agent of any

1 federal law enforcement agency by otherwise releasing the  
2 information shall be a felony;

3 6. The use by any division of the Tax Commission of any  
4 information or evidence in the possession of or contained in any  
5 report or return filed with any other division of the Tax  
6 Commission;

7 7. The furnishing, at the discretion of the Tax Commission, of  
8 any information disclosed by its records or files to any official  
9 person or body of this state, any other state, the United States or  
10 foreign country who is concerned with the administration or  
11 assessment of any similar tax in this state, any other state or the  
12 United States. The provisions of this paragraph shall include the  
13 furnishing of information by the Tax Commission to a county assessor  
14 to determine the amount of gross household income pursuant to the  
15 provisions of Section 8C of Article X of the Oklahoma Constitution  
16 or Section 2890 of this title. The Tax Commission shall promulgate  
17 rules to give guidance to the county assessors regarding the type of  
18 information which may be used by the county assessors in determining  
19 the amount of gross household income pursuant to Section 8C of  
20 Article X of the Oklahoma Constitution or Section 2890 of this  
21 title. The provisions of this paragraph shall also include the  
22 furnishing of information to the State Treasurer for the purpose of  
23 administration of the Uniform Unclaimed Property Act;

1        8. The furnishing of information to other state agencies for  
2 the limited purpose of aiding in the collection of debts owed by  
3 individuals to such requesting agencies;

4        9. The furnishing of information requested by any member of the  
5 general public and stated in the sworn lists or schedules of taxable  
6 property of public service corporations organized, existing, or  
7 doing business in this state which are submitted to and certified by  
8 the State Board of Equalization pursuant to the provisions of  
9 Section 2858 of this title and Section 21 of Article X of the  
10 Oklahoma Constitution, provided such information would be a public  
11 record if filed pursuant to Sections 2838 and 2839 of this title on  
12 behalf of a corporation other than a public service corporation;

13       10. The furnishing of information requested by any member of  
14 the general public and stated in the findings of the Tax Commission  
15 as to the adjustment and equalization of the valuation of real and  
16 personal property of the counties of the state, which are submitted  
17 to and certified by the State Board of Equalization pursuant to the  
18 provisions of Section 2865 of this title and Section 21 of Article X  
19 of the Oklahoma Constitution;

20       11. The furnishing of information as to the issuance or  
21 revocation of any tax permit, license or exemption by the Tax  
22 Commission as provided for by law. Such information shall be  
23 limited to the name of the person issued the permit, license or  
24 exemption, the name of the business entity authorized to engage in

1 business pursuant to the permit, license or exemption, the address  
2 of the business entity and the grounds for revocation;

3 12. The posting of notice of revocation of any tax permit or  
4 license upon the premises of the place of business of any business  
5 entity which has had any tax permit or license revoked by the Tax  
6 Commission as provided for by law. Such notice shall be limited to  
7 the name of the person issued the permit or license, the name of the  
8 business entity authorized to engage in business pursuant to the  
9 permit or license, the address of the business entity and the  
10 grounds for revocation;

11 13. The furnishing of information upon written request by any  
12 member of the general public as to the outstanding and unpaid amount  
13 due and owing by any taxpayer of this state for any delinquent tax,  
14 together with penalty and interest, for which a tax warrant or a  
15 certificate of indebtedness has been filed pursuant to law;

16 14. After the filing of a tax warrant pursuant to law, the  
17 furnishing of information upon written request by any member of the  
18 general public as to any agreement entered into by the Tax  
19 Commission concerning a compromise of tax liability for an amount  
20 less than the amount of tax liability stated on such warrant;

21 15. The disclosure of information necessary to complete the  
22 performance of any contract authorized by this title to any person  
23 with whom the Tax Commission has contracted;

1        16. The disclosure of information to any person for a purpose  
2 as authorized by the taxpayer pursuant to a waiver of  
3 confidentiality. The waiver shall be in writing and shall be made  
4 upon such form as the Tax Commission may prescribe;

5        17. The disclosure of information required in order to comply  
6 with the provisions of Section 2369 of this title;

7        18. The disclosure to an employer, as defined in Sections  
8 2385.1 and 2385.3 of this title, of information required in order to  
9 collect the tax imposed by Section 2385.2 of this title;

10       19. The disclosure to a plaintiff of a corporation's last-known  
11 address shown on the records of the Franchise Tax Division of the  
12 Tax Commission in order for such plaintiff to comply with the  
13 requirements of Section 2004 of Title 12 of the Oklahoma Statutes;

14       20. The disclosure of information directly involved in the  
15 resolution of the protest by a taxpayer to an assessment of tax or  
16 additional tax or the resolution of a claim for refund filed by a  
17 taxpayer, including the disclosure of the pendency of an  
18 administrative proceeding involving such protest or claim, to a  
19 person called by the Tax Commission as an expert witness or as a  
20 witness whose area of knowledge or expertise specifically addresses  
21 the issue addressed in the protest or claim for refund. Such  
22 disclosure to a witness shall be limited to information pertaining  
23 to the specific knowledge of that witness as to the transaction or  
24 relationship between taxpayer and witness;

1        21. The disclosure of information necessary to implement an  
2 agreement authorized by Section 2702 of this title when such  
3 information is directly involved in the resolution of issues arising  
4 out of the enforcement of a municipal sales tax ordinance. Such  
5 disclosure shall be to the governing body or to the municipal  
6 attorney, if so designated by the governing body;

7        22. The furnishing of information regarding incentive payments  
8 made pursuant to the provisions of Sections 3601 through 3609 of  
9 this title, ~~or~~ incentive payments made pursuant to the provisions of  
10 Sections 3501 through 3508 of this title, or incentive payments made  
11 pursuant to the provisions of Sections 1 through 8 of this act;

12        23. The furnishing to a prospective purchaser of any business,  
13 or his or her authorized representative, of information relating to  
14 any liabilities, delinquencies, assessments or warrants of the  
15 prospective seller of the business which have not been filed of  
16 record, established or become final and which relate solely to the  
17 seller's business. Any disclosure under this paragraph shall only  
18 be allowed upon the presentment by the prospective buyer, or the  
19 buyer's authorized representative, of the purchase contract and a  
20 written authorization between the parties;

21        24. The furnishing of information as to the amount of state  
22 revenue affected by the issuance or granting of any tax permit,  
23 license, exemption, deduction, credit or other tax preference by the  
24 Tax Commission as provided for by law. Such information shall be



1 limited to the type of permit, license, exemption, deduction, credit  
2 or other tax preference issued or granted, the date and duration of  
3 such permit, license, exemption, deduction, credit or other tax  
4 preference and the amount of such revenue. The provisions of this  
5 paragraph shall not authorize the disclosure of the name of the  
6 person issued such permit, license, exemption, deduction, credit or  
7 other tax preference, or the name of the business entity authorized  
8 to engage in business pursuant to the permit, license, exemption,  
9 deduction, credit or other tax preference;

10 25. The examination of records and files of a person or entity  
11 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
12 Control pursuant to a court order by a magistrate in whose  
13 territorial jurisdiction the person or entity resides, or where the  
14 Tax Commission records and files are physically located. Such an  
15 order may only be issued upon a sworn application by an agent of the  
16 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
17 certifying that the person or entity whose records and files are to  
18 be examined is the target of an ongoing investigation of a felony  
19 violation of the Uniform Controlled Dangerous Substances Act and  
20 that information resulting from such an examination would likely be  
21 relevant to that investigation. Any records or information obtained  
22 pursuant to such an order may only be used by the Oklahoma State  
23 Bureau of Narcotics and Dangerous Drugs Control in the investigation  
24 and prosecution of a felony violation of the Uniform Controlled

1 Dangerous Substances Act. Any such order issued pursuant to this  
2 paragraph, along with the underlying application, shall be sealed  
3 and not disclosed to the person or entity whose records were  
4 examined, for a period of ninety (90) days. The issuing magistrate  
5 may grant extensions of such period upon a showing of good cause in  
6 furtherance of the investigation. Upon the expiration of ninety  
7 (90) days and any extensions granted by the magistrate, a copy of  
8 the application and order shall be served upon the person or entity  
9 whose records were examined, along with a copy of the records or  
10 information actually provided by the Tax Commission;

11 26. The disclosure of information, as prescribed by this  
12 paragraph, which is related to the proposed or actual usage of tax  
13 credits pursuant to Section 2357.7 of this title, the Small Business  
14 Capital Formation Incentive Act or the Rural Venture Capital  
15 Formation Incentive Act. Unless the context clearly requires  
16 otherwise, the terms used in this paragraph shall have the same  
17 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this  
18 title. The disclosure of information authorized by this paragraph  
19 shall include:

- 20 a. the legal name of any qualified venture capital  
21 company, qualified small business capital company or  
22 qualified rural small business capital company,  
23 b. the identity or legal name of any person or entity  
24 that is a shareholder or partner of a qualified

1 venture capital company, qualified small business  
2 capital company or qualified rural small business  
3 capital company,

4 c. the identity or legal name of any Oklahoma business  
5 venture, Oklahoma small business venture or Oklahoma  
6 rural small business venture in which a qualified  
7 investment has been made by a capital company, or

8 d. the amount of funds invested in a qualified venture  
9 capital company, the amount of qualified investments  
10 in a qualified small business capital company or  
11 qualified rural small business capital company and the  
12 amount of investments made by a qualified venture  
13 capital company, qualified small business capital  
14 company, or qualified rural small business capital  
15 company;

16 27. The disclosure of specific information as required by  
17 Section 46 of Title 62 of the Oklahoma Statutes;

18 28. The disclosure of specific information as required by  
19 Section 205.5 of this title;

20 29. The disclosure of specific information as required by  
21 Section 205.6 of this title;

22 30. The disclosure of information to the State Treasurer  
23 necessary to implement Section 2368.27 of this title;

1        31. The disclosure of specific information to the Oklahoma  
2 Health Care Authority for purposes of determining eligibility for  
3 current or potential recipients of assistance from the Oklahoma  
4 Medicaid Program; or

5        32. The disclosure of information to the Oklahoma Department of  
6 Veterans Affairs including but not limited to the name and basis for  
7 eligibility of each individual who qualifies for the sales tax  
8 exemption authorized in paragraph 34 of Section 1357 of this title.

9        D. The Tax Commission shall cause to be prepared and made  
10 available for public inspection in the office of the Tax Commission  
11 in such manner as it may determine an annual list containing the  
12 name and post office address of each person, whether individual,  
13 corporate or otherwise, making and filing an income tax return with  
14 the Tax Commission.

15        It is specifically provided that no liability whatsoever, civil  
16 or criminal, shall attach to any member of the Tax Commission or any  
17 employee thereof for any error or omission of any name or address in  
18 the preparation and publication of the list.

19        E. The Tax Commission shall prepare or cause to be prepared a  
20 report on all provisions of state tax law that reduce state revenue  
21 through exclusions, deductions, credits, exemptions, deferrals or  
22 other preferential tax treatments. The report shall be prepared not  
23 later than October 1 of each even-numbered year and shall be  
24 submitted to the Governor, the President Pro Tempore of the Senate

1 and the Speaker of the House of Representatives. The Tax Commission  
2 may prepare and submit supplements to the report at other times of  
3 the year if additional or updated information relevant to the report  
4 becomes available. The report shall include, for the previous  
5 fiscal year, the Tax Commission's best estimate of the amount of  
6 state revenue that would have been collected but for the existence  
7 of each such exclusion, deduction, credit, exemption, deferral or  
8 other preferential tax treatment allowed by law. The Tax Commission  
9 may request the assistance of other state agencies as may be needed  
10 to prepare the report. The Tax Commission is authorized to require  
11 any recipient of a tax incentive or tax expenditure to report to the  
12 Tax Commission such information as requested so that the Tax  
13 Commission may fulfill its obligations as required by this  
14 subsection. The Tax Commission may require this information to be  
15 submitted in an electronic format. The Tax Commission may disallow  
16 any claim of a person for a tax incentive due to its failure to file  
17 a report as required under the authority of this subsection.

18 F. It is further provided that the provisions of this section  
19 shall be strictly interpreted and shall not be construed as  
20 permitting the disclosure of any other information contained in the  
21 records and files of the Tax Commission relating to income tax or to  
22 any other taxes.

23 G. Unless otherwise provided for in this section, any violation  
24 of the provisions of this section shall constitute a misdemeanor and

1 shall be punishable by the imposition of a fine not exceeding One  
2 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail  
3 for a term not exceeding one (1) year, or by both such fine and  
4 imprisonment, and the offender shall be removed or dismissed from  
5 office.

6 H. Offenses described in Section 2376 of this title shall be  
7 reported to the appropriate district attorney of this state by the  
8 Tax Commission as soon as the offenses are discovered by the Tax  
9 Commission or its agents or employees. The Tax Commission shall  
10 make available to the appropriate district attorney or to the  
11 authorized agent of the district attorney its records and files  
12 pertinent to prosecutions, and such records and files shall be fully  
13 admissible as evidence for the purpose of such prosecutions.

14 SECTION 10. This act shall become effective November 1, 2022."

15 Passed the Senate the 27th day of April, 2022.  
16

17  
18 \_\_\_\_\_  
Presiding Officer of the Senate

19 Passed the House of Representatives the \_\_\_\_ day of \_\_\_\_\_,  
20 2022.  
21

22  
23 \_\_\_\_\_  
Presiding Officer of the House  
24 of Representatives

1 ENGROSSED HOUSE  
2 BILL NO. 4085

By: Wallace and Dempsey of the  
House

3 and

4 Howard of the Senate  
5  
6

7 An Act relating to revenue and taxation; creating the  
8 Oklahoma Rural Jobs Act; defining terms; establishing  
9 requirements; establishing application process;  
10 providing for a tax credit; establishing an  
11 authorization amount limit; establishing investment  
12 requirements; allowing for lapse in certification  
13 creating a credit; allowing for transfer of credit;  
14 providing for recapture of credits; determining how  
15 recaptured credits are to be allocated; creating a  
16 program exit process; creating ownership limitations;  
17 creating reporting requirements; establishing a  
18 sunset date; providing for codification; and  
19 providing an effective date.  
20  
21

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

23 SECTION 11. NEW LAW A new section of law to be codified  
24 in the Oklahoma Statutes as Section 3930 of Title 68, unless there  
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Rural  
Jobs Act".

SECTION 12. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 3931 of Title 68, unless there  
is created a duplication in numbering, reads as follows:

As used in this act:

1. "Affiliate" means an entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under the common control with another entity. An entity is controlled by another entity if the controlling entity holds, directly or indirectly, the majority of voting or ownership interest in the controlled entity or has control over day-to-day operations of the controlled entity by contract or by law;

2. "Applicable percentage" means zero percent (0%) for the first two credit allowance dates, and fifteen percent (15%) for the next four credit allowance dates;

3. "Capital investment" means any equity investment in a rural fund by a rural investor which:

a. is acquired after the effective date of this act at its original issuance solely in exchange for cash,

b. has one hundred percent (100%) of its cash purchase price used by the rural fund to make qualified investments in eligible businesses located in this state by the third anniversary of the initial credit allowance date, and

c. is designated by the rural fund as a capital investment under this act and is certified by the Tax Commission under the provisions of Section 3 of this act. This shall include any capital investment that



1 does not meet the provisions of paragraph 1 of  
2 subsection A of Section 3 of this act, if such  
3 investment was a capital investment in the hands of a  
4 prior holder;

5 4. "Commission" means the Oklahoma Tax Commission;

6 5. "Credit allowance date" means the date on which the Tax  
7 Commission certifies a rural fund's capital investment and each of  
8 the five anniversary dates of such date thereafter;

9 6. "Eligible business" means a business that, at the time of  
10 the initial qualified investment in the business:

11 a. has fewer than two hundred fifty employees, and

12 b. has its principal business operations in the state.

13 Any business which is classified as an eligible business at the  
14 time of the initial investment in such business by a rural fund  
15 shall remain classified as an eligible business and may receive  
16 follow-on investments from any rural fund, and such follow-on  
17 investments shall be qualified investments even though such business  
18 may not meet the definition of an eligible business at the time of  
19 such follow-on investment;

20 7. "Principal business operations" means the location where at  
21 least sixty percent (60%) of a business's employees work or where  
22 employees who are paid at least sixty percent (60%) of such  
23 business's payroll work if a majority of such employees reside in  
24 Oklahoma during such employment. A business that has agreed to

1 relocate employees using the proceeds of a qualified investment to  
2 establish its principal business operations in a new location shall  
3 be deemed to have its principal business operations in such new  
4 location if it satisfied the requirements of this paragraph no later  
5 than one hundred eighty (180) days after receiving a qualified  
6 investment;

7 8. "Purchase price" means the amount paid to the rural fund  
8 that issues a capital investment which shall not exceed the amount  
9 of capital investment authority certified under the provisions of  
10 Section 3 of this act;

11 9. "Qualified investment" means any investment in an eligible  
12 business or any loan to an eligible business with a stated maturity  
13 date of at least one (1) year after the date of issuance, excluding  
14 revolving lines of credit and senior-secured debt unless the chief  
15 executive or similar officer of the eligible business certifies that  
16 the eligible business sought and was denied similar financing from a  
17 depository institution, by a rural fund; provided that, with respect  
18 to any one eligible business, the maximum amount of investments made  
19 in such business by one or more rural funds, on a collective basis  
20 with all of the businesses' affiliates, with the proceeds of the  
21 capital investments shall be the greater of twenty percent (20%) of  
22 the rural fund's capital investment authority or Six Million Five  
23 Hundred Thousand Dollars (\$6,500,000.00), exclusive of investments  
24

1 made with repaid or redeemed investments or interest or profits  
2 realized thereon;

3 10. "Rural area" means any county of this state that has a  
4 population of less than seventy-five thousand (75,000) or any city  
5 or town of this state that has a population not to exceed seven  
6 thousand (7,000) according to the 2020 Federal Decennial Census of  
7 the United States;

8 11. "Rural fund" means an entity certified by the Tax  
9 Commission under the provisions of Section 3 of this act;

10 12. "Rural investor" means an entity that makes a capital  
11 investment in a rural fund;

12 13. "Senior-secured debt" means any loan that is secured by a  
13 first mortgage on real estate with a loan-to-value ratio of less  
14 than eighty percent (80%); and

15 14. "State tax liability" means any liability incurred by any  
16 entity subject to the state income tax imposed under Title 68 of the  
17 Oklahoma Statutes or an insurance company paying an annual tax on  
18 its gross premium receipts, including retaliatory tax, or other  
19 financial institution paying taxes to the state or any political  
20 subdivision of the state under provisions of Title 68 or Title 19 of  
21 the Oklahoma Statutes.

22 SECTION 13. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 3932 of Title 68, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. A rural fund that seeks to have an equity investment  
2 certified as a capital investment eligible for credits authorized  
3 under the provisions of this act shall apply to the Tax Commission.  
4 The Commission shall begin accepting applications within ninety (90)  
5 days of the effective date of this act. The application shall  
6 include:

7       1. The amount of capital investment requested;

8       2. A copy of the applicant's or an affiliate of the applicant's  
9 licenses as a rural business investment company under 7 U.S.C.,  
10 Section 2009cc or as a small business investment company under 15  
11 U.S.C., Section 681, and a certificate executed by an executive  
12 officer of the applicant attesting that such license remains in  
13 effect and has not been revoked;

14       3. Evidence that, as of the date the application is submitted,  
15 the applicant or affiliates of the applicant have invested at least  
16 One Hundred Million Dollars (\$100,000,000.00) in nonpublic companies  
17 located in counties within the United States with a population of  
18 less than seventy-five thousand (75,000) according to the 2010  
19 Federal Decennial Census of the United States;

20       4. A business plan that includes a revenue-impact assessment  
21 projecting state and local tax revenue to be generated by the  
22 applicant's proposed qualified investments, prepared by a nationally  
23 recognized, third-party, independent economic forecasting firm using  
24 a dynamic economic forecasting model that analyzes the applicant's

1 business plan over the ten (10) years following the date the  
2 application is submitted to the Tax Commission. Such plan shall  
3 include an estimate of the number of jobs created and jobs retained  
4 in this state as a result of the applicant's qualified investments;  
5 and

6 5. A nonrefundable application fee of Five Thousand Dollars  
7 (\$5,000.00) payable to the Tax Commission.

8 B. Within thirty (30) days after the receipt of a completed  
9 application, the Tax Commission shall grant or deny the application  
10 in full or in part. The Tax Commission shall deny the application  
11 if:

12 1. The applicant does not satisfy all the criteria provided  
13 under subsection A of this section;

14 2. The revenue-impact assessment submitted with the application  
15 does not demonstrate that the applicant's business plan will result  
16 in a positive fiscal impact on the state over a ten-year period that  
17 exceeds the cumulative amount of tax credits that would be issued to  
18 the applicant if the application was approved; or

19 3. The Tax Commission has already approved the maximum amount  
20 of capital investment authority under Section 4 of this act.

21 C. If the Tax Commission denies any part of the application, it  
22 shall inform the applicant of the grounds for such denial. If the  
23 applicant provides any additional information required by the  
24 Commission or otherwise completes its application within fifteen

1 (15) days of the notice of denial, the application shall be  
2 considered complete as of the original date of submission. If the  
3 applicant fails to provide the information or fails to complete its  
4 application within the fifteen-day period, the application shall  
5 remain denied and must be resubmitted with a new submission date and  
6 a new application fee.

7 D. Upon approval of an application, the Tax Commission shall  
8 certify the proposed equity investment as a capital investment  
9 eligible for credits under this act, subject to limitations laid out  
10 in Section 4 of this act. The Tax Commission shall provide written  
11 notice of the certification to the applicant which shall include the  
12 amount of the applicant's capital investment authority. The Tax  
13 Commission shall certify capital investments in the order that the  
14 applications are received by the Commission. Applications received  
15 on the same day shall be deemed to have been received  
16 simultaneously. For applications that are complete and received on  
17 the same day, the Tax Commission shall certify applications in  
18 proportionate percentages based upon the ratio of the amount of  
19 capital investment authority requested in all applications.

20 SECTION 14. NEW LAW A new section of law to be codified  
21 in the Oklahoma Statutes as Section 3933 of Title 68, unless there  
22 is created a duplication in numbering, reads as follows:

23 A. The Tax Commission shall certify capital investment  
24 authority under the provisions of this act in amounts that would not

1 authorize more than Fifteen Million Dollars (\$15,000,000.00) in  
2 state tax credits to be claimed against state tax liability in any  
3 fiscal year, excluding any credit amounts carried forward as  
4 provided under subsection A of Section 5 of this act. Within ninety  
5 (90) days of the applicant receiving notice of certification, the  
6 rural fund shall issue the capital investment to, and receive cash  
7 in the amount of the certified amount from a rural investor. At  
8 least ten percent (10%) of the rural investor's capital investment  
9 shall be composed of capital raised by the rural investor directly  
10 or indirectly from sources, including directors, members, employees,  
11 officers, and affiliates of the rural investor, other than the  
12 amount invested by the allocatee claiming the tax credits in  
13 exchange for such allocation of tax credits. The rural fund shall  
14 provide the Tax Commission with evidence of the receipt of the cash  
15 investment within ninety-five (95) days of the applicant receiving  
16 notice of certification.

17 B. If the rural fund does not receive the cash investment and  
18 issue the capital investment within such time period following  
19 receipt of the certificate notice, the certification shall lapse and  
20 the rural fund shall not issue the capital investment without  
21 reapplying to the Tax Commission for certification. Lapsed  
22 certifications shall revert to the Tax Commission and shall be  
23 reissued pro rata to applicants whose capital investment allocations  
24

1 were reduced in accordance with the application process provided  
2 under subsection D of Section 3 of this act.

3 C. A rural fund, before making a qualified investment, may  
4 request from the Tax Commission a written opinion as to whether the  
5 business in which it proposes to invest is an eligible business.  
6 The Commission, no later than twenty (20) days after the date of  
7 receipt of such request, shall notify the rural fund of its  
8 determination. If the Tax Commission fails to notify the rural fund  
9 of its determination by the thirtieth business day, the business in  
10 which the rural fund proposes to invest shall be deemed an eligible  
11 business.

12 D. For tax years beginning on or after January 1, 2023, the  
13 total amount of credits authorized by this section used to offset  
14 tax shall be adjusted annually to limit the annual amount of credits  
15 to Fifteen Million Dollars (\$15,000,000.00). The Tax Commission  
16 shall annually calculate and publish a percentage by which the  
17 credits authorized by this section shall be reduced so the total  
18 amount of credits used to offset tax does not exceed Fifteen Million  
19 Dollars (\$15,000,000.00) per year. The formula to be used for the  
20 percentage adjustment shall be Fifteen Million Dollars  
21 (\$15,000,000.00) divided by the credits used to offset tax in the  
22 second preceding year.

23 E. Pursuant to subsection D of this section, in the event the  
24 total tax credits authorized by this section exceed Fifteen Million



1 Dollars (\$15,000,000.00) in any calendar year, the Tax Commission  
2 shall permit any excess over Fifteen Million Dollars  
3 (\$15,000,000.00) but shall factor such excess into the percentage  
4 adjustment formula for subsequent years.

5 SECTION 15. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 3934 of Title 68, unless there  
7 is created a duplication in numbering, reads as follows:

8 A. Upon making a capital investment in a rural fund, a rural  
9 investor shall have a credit against such entity's state tax  
10 liability that may be utilized on each credit allowance date of such  
11 capital investment in an amount equal to the applicable percentage  
12 for such credit allowance date multiplied by the purchase price paid  
13 to the rural fund for the capital investment. The amount of the  
14 credit claimed by a rural investor shall not exceed the amount of  
15 such entity's state tax liability for the tax year for which the  
16 credit is claimed. Any amount of credit that a rural investor is  
17 prohibited from claiming in a tax year as a result of this section  
18 may be carried forward for use in any of the five (5) subsequent tax  
19 years, but shall not be carried back to prior tax years. It is the  
20 intent of this act that a rural investor claiming a credit under  
21 this act is not required to pay any additional tax that may arise as  
22 a result of claiming such credit.

23 B. No credit claimed under the provisions of this act shall be  
24 refundable or saleable on the open market. Credits earned by or

1 allocated to a partnership, limited liability company, or S-  
2 corporation may be allocated to the partners, members, or  
3 shareholders of such entity for their direct use in accordance with  
4 the provisions of any agreement among such partners, members, or  
5 shareholders, and a rural fund shall notify the Tax Commission of  
6 the names of the entities that are eligible to utilize transfer of a  
7 capital investment upon such allocation, change or transfer. Such  
8 allocation shall not be considered a sale for the purpose of this  
9 section.

10 C. The Oklahoma Tax Commission shall recapture credits from a  
11 taxpayer that claimed a credit authorized under this section if:

12 1. The rural fund does not invest sixty percent (60%) of its  
13 capital investment authority in qualified investments in this state  
14 within two (2) years of the credit allowance date, and one hundred  
15 percent (100%) of its capital investment authority in qualified  
16 investments in this state within three (3) years of the credit  
17 allowance date; provided that at least seventy percent (70%) of  
18 these initial qualified investments must be made in eligible  
19 businesses located in rural areas;

20 2. The rural fund fails to maintain qualified investments equal  
21 to ninety percent (90%) of its capital investment authority from the  
22 third anniversary until the sixth anniversary of the credit  
23 allowance date, with seventy percent (70%) of such investments  
24 maintained in eligible businesses located in rural areas. For each

1 year the rural fund fails to maintain such investments, the Tax  
2 Commission shall recapture an amount of such year's allowed credits  
3 equal to the percentage difference between ninety percent (90%) of a  
4 rural fund's capital investment authority and the actual amount of  
5 qualified investments maintained for such year. For the purposes of  
6 this subsection, a qualified investment is considered even if the  
7 qualified investment was sold or repaid so long as the rural fund  
8 reinvests an amount equal to the capital returned or recovered or  
9 repaid by the rural fund from the original investment, exclusive of  
10 any profits realized, in other qualified investments in this state  
11 within twelve (12) months of receipt of such capital. Amounts  
12 received periodically by a rural fund shall be treated as  
13 continually invested in qualified investments if the amounts are  
14 reinvested in one or more qualified investments by the end of the  
15 following calendar year. A rural fund shall not be required to  
16 reinvest capital returned from qualified investments after the fifth  
17 anniversary of the credit allowance date, and such qualified  
18 investments shall be considered held continuously by the rural fund  
19 through the sixth anniversary of the credit allowance date;

20 3. Prior to the earlier of (a) exiting the program in  
21 accordance with this act or (b) thirty (30) days after the sixth  
22 anniversary of the credit allowance date, the rural fund makes a  
23 distribution or payment that results in the rural fund having less  
24 than one hundred percent (100%) of its capital investment authority

1 invested in qualified investments in the state or held in cash or  
2 other marketable securities; or

3 4. The rural fund violates the provisions of Section 6 of this  
4 act, in which case the Tax Commission shall recapture an amount  
5 equal to the amount of the rural fund's capital investment authority  
6 found to be in violation of such provisions.

7 For the purposes of meeting and maintaining the objectives  
8 established for investment in paragraphs 1 and 2 of this subsection,  
9 a rural fund's qualified investments shall be multiplied by a factor  
10 of one and one-quarter ( $1 \frac{1}{4}$ ) in counties with less than thirty  
11 thousand (30,000) in population and more than thirteen thousand  
12 (13,000) in population and shall be multiplied by a factor of one  
13 and one-half ( $1 \frac{1}{2}$ ) in counties with a population of thirteen  
14 thousand (13,000) or less.

15 D. Recaptured credits and related capital investment authority  
16 shall revert to the Tax Commission and shall be reissued pro rata to  
17 applicants whose capital investment allocations were reduced in  
18 accordance with the application process provided under subsection D  
19 of Section 3 of this act.

20 E. No recapture shall occur until the rural fund has been given  
21 notice of noncompliance and afforded six (6) months from the date of  
22 such notice to cure the noncompliance.  
23  
24

1       SECTION 16.       NEW LAW       A new section of law to be codified  
2 in the Oklahoma Statutes as Section 3935 of Title 68, unless there  
3 is created a duplication in numbering, reads as follows:

4       A. No eligible business that receives a qualified investment  
5 under the provisions of this act, or any affiliates or such eligible  
6 business, shall directly or indirectly:

7       1. Own or have the right to acquire an ownership interest in a  
8 rural fund or member or affiliate of a rural fund, including, but  
9 not limited to, a holder of a capital investment issued by a rural  
10 fund; or

11       2. Loan to or invest in a rural fund or any member or affiliate  
12 of a rural fund, including, but not limited to, a holder of capital  
13 investment issued by a rural fund, where the proceeds of such loan  
14 or investment are directly or indirectly used to fund or refinance  
15 the purchase of capital investments under this act.

16       SECTION 17.       NEW LAW       A new section of law to be codified  
17 in the Oklahoma Statutes as Section 3936 of Title 68, unless there  
18 is created a duplication in numbering, reads as follows:

19       A. Rural funds shall submit a report to the Tax Commission  
20 within the first fifteen (15) business days after the second and  
21 third anniversary of the initial credit allowance date. The report  
22 following the second anniversary shall provide documentation as to  
23 the investment of sixty percent (60%) of the purchase price of such  
24 capital investment in qualified investments. The report following

1 the third anniversary shall provide documentation as to the  
2 investment of one hundred percent (100%) of the purchase price of  
3 such capital investment in qualified investments. Unless previously  
4 reported pursuant to this subsection, such reports shall also  
5 include:

6 1. The name and location of each eligible business receiving a  
7 qualified investment;

8 2. Bank statements of such rural fund evidencing each qualified  
9 investment;

10 3. A copy of the written opinion of the Tax Commission, as  
11 provided in subsection C of Section 4 of this act, or evidence that  
12 such business was an eligible business at the time of such qualified  
13 investment, as applicable;

14 4. The number of jobs created and jobs retained as a result of  
15 each qualified investment;

16 5. The average salary of positions described in paragraph 4 of  
17 this subsection; and

18 6. Such other information as required by the Tax Commission.

19 B. For all subsequent years, rural funds shall submit an annual  
20 report to the Tax Commission within ninety (90) days of the  
21 beginning of the calendar year during the compliance period. The  
22 report shall include, but is not limited to the following:

23 1. The number of jobs created and jobs retained as a result of  
24 qualified investments;

1        2. The average annual salary of positions described in  
2 paragraph 1 of this subsection; and

3        3. Such other information as required by the Tax Commission.

4        C. On or after the sixth anniversary of the credit allowance  
5 date, a rural fund may apply to the Tax Commission to exit the  
6 program and no longer be subject to the regulation hereunder. The  
7 Tax Commission shall respond to the exit application within fifteen  
8 (15) days of receipt. In evaluating the exit application, the fact  
9 that no credits have been recaptured and that the rural fund has not  
10 received a notice of recapture that has not been cured pursuant to  
11 subsection E of Section 5 of this act shall be sufficient evidence  
12 to prove that the rural fund is eligible for exit. The Tax  
13 Commission shall not unreasonably deny an exit application submitted  
14 under this section. If an exit application is denied, the notice  
15 shall include the reasons for the determination.

16        SECTION 18.        NEW LAW        A new section of law to be codified  
17 in the Oklahoma Statutes as Section 3937 of Title 68, unless there  
18 is created a duplication in numbering, reads as follows:

19        The Tax Commission shall not accept new applications for tax  
20 credits authorized under this act after December 1, 2032.

21        SECTION 19. This act shall become effective November 1, 2022.  
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24

1 Passed the House of Representatives the 9th day of March, 2022.

2  
3 \_\_\_\_\_  
4 Presiding Officer of the House  
of Representatives

5 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2022.

6  
7  
8 \_\_\_\_\_  
9 Presiding Officer of the Senate