

1 **SENATE FLOOR VERSION**

2 February 19, 2025

3 **AS AMENDED**

4 SENATE BILL NO. 718

5 By: Daniels

6 [credit against tax - repealers - effective date]

7
8
9 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

10 SECTION 1. AMENDATORY 68 O.S. 2021, Section 2357.7, is
11 amended to read as follows:

12 Section 2357.7. A. For taxable years beginning after December
13 31, 1986, and before January 1, 2009, there shall be allowed a
14 credit against the tax imposed by Section 2355 of this title or
15 Section 624 of Title 36 of the Oklahoma Statutes for investments in
16 qualified venture capital companies whose purpose is to establish or
17 expand the development of business and industry within Oklahoma.
18 Provided, tax credits against liabilities imposed pursuant to
19 Section 624 of Title 36 of the Oklahoma Statutes shall be limited to
20 the amount that would otherwise be collected and allocated to the
21 General Revenue Fund of the State Treasury.

22 B. For purposes of this section:

23 1. "Qualified venture capital company" means a C corporation,
24 as defined by the Internal Revenue Code of 1986, as amended,

1 incorporated pursuant to the laws of Oklahoma or a registered
2 business partnership with a certificate of partnership filed as
3 required by law if such corporation or partnership is organized to
4 provide the direct investment of debt and equity funds to companies
5 within this state, with its principal place of business located
6 within this state and which meets the following criteria:

7 a. capitalization of not less than Five Million Dollars
8 (\$5,000,000.00),

9 b. having a purpose and objective of investing at least
10 seventy-five percent (75%) of its capitalization in
11 Oklahoma business ventures. The temporary investment
12 of funds by a qualified venture capital company in
13 obligations of the United States, state and municipal
14 bonds, bank certificates of deposit, or money market
15 securities pending investment in Oklahoma business
16 ventures is hereby authorized, and

17 c. investment of not more than ten percent (10%) of its
18 funds in any one company;

19 2. "Oklahoma business venture" means a business, incorporated
20 or unincorporated, which:

21 a. has or will have, within one hundred eighty (180) days
22 after an investment is made by a qualified venture
23 capital company, at least fifty percent (50%) of its
24 employees or assets located in Oklahoma,

- 1 b. needs financial assistance in order to commence or
2 expand such business which provides or intends to
3 provide goods or services,
- 4 c. is not engaged in oil and gas exploration, real estate
5 development, real estate sales, retail sales of food
6 or clothing, farming, ranching, banking, or lending or
7 investing funds in other businesses. Provided,
8 however, businesses which provide or intend to provide
9 goods or services, including, but not limited to,
10 goods or services involving new technology, equipment,
11 or techniques to such businesses listed in this
12 subparagraph, and investments in the development of
13 tourism facilities in the form of amusement parks,
14 entertainment parks, theme parks, golf courses, or
15 museums shall not be subject to ~~said~~ such prohibition,
16 and
- 17 d. expends within eighteen (18) months after the date of
18 the investment at least fifty percent (50%) of the
19 proceeds of the investment for the acquisition of
20 tangible or intangible assets which are used in the
21 active conduct of the trade or business of the
22 Oklahoma business venture or to provide working
23 capital for the active conduct of such trade or
24 business. For purposes of this subparagraph, "working

1 capital" shall not include consulting, brokerage or
2 transaction fees. Provided, that the Oklahoma Tax
3 Commission, upon request and demonstration of need by
4 a qualified venture capital company or an Oklahoma
5 business venture, may extend the eighteen-month period
6 otherwise required by this subparagraph for a period
7 not to exceed six (6) months. Provided, the
8 expenditure of the invested funds by the Oklahoma
9 business venture shall otherwise comply with the
10 requirements applicable to the usage of tax credits
11 for investment in the Oklahoma business venture. As
12 used in this subparagraph, "tangible assets" shall
13 include the acquisition of real property and the
14 construction of improvements upon real property if
15 such acquisition and construction otherwise complies
16 with the requirements applicable to the usage of tax
17 credits for investment in the Oklahoma business
18 venture and "intangible assets" shall be limited to
19 computer software, licenses, patents, copyrights, and
20 similar items;

21 3. "Direct investment" means the purchase of securities of a
22 private company, or securities of a public company if the securities
23 constitute a new issue of a public company and such public company
24

1 had previous year sales of less than Ten Million Dollars
2 (\$10,000,000.00); and

3 4. "Debt and equity funds" means investments in debt
4 securities; including unsecured, undersecured, subordinated or
5 convertible loans or debt securities; and/or equity securities,
6 including common and preferred stock, royalty rights, limited
7 partnership interest, and any other securities or rights that
8 evidence ownership in businesses; provided such investment of debt
9 and equity funds shall not have a repayment schedule that is faster
10 than a level principal amortization over five (5) years.

11 C. The credit provided for in subsection A of this section
12 shall be twenty percent (20%) of the cash amount invested in
13 qualified venture capital companies which is subsequently invested
14 in an Oklahoma business venture by the qualified venture capital
15 company and may only be claimed for a taxable year during which the
16 qualified venture capital company makes an investment in an Oklahoma
17 business venture. The credit shall be allowed for the amount of the
18 investment in an Oklahoma business venture if the funds are used in
19 pursuit of a legitimate business purpose of the Oklahoma business
20 venture consistent with its organizational instrument, bylaws or
21 other agreement responsible for the governance of the business
22 venture. The qualified venture capital company shall issue such
23 reports as the Oklahoma Tax Commission may require attributing the
24 source of funds of each investment it makes in an Oklahoma business

1 venture. ~~The Oklahoma Capital Investment Board shall have the~~
2 ~~authority to certify an entity as a qualified venture capital~~
3 ~~company and to certify an investment to be a qualifying Oklahoma~~
4 ~~business venture for purposes of complying with subsection B of this~~
5 ~~section. Such certification shall be binding on the Oklahoma Tax~~
6 ~~Commission. Such certification shall not be mandatory but may be~~
7 ~~requested by any entity that desires to be certified. A reasonable~~
8 ~~certification fee may be charged by the Oklahoma Capital Investment~~
9 ~~Board for this service. If the tax credit allowed pursuant to~~
10 ~~subsection A of this section exceeds the amount of taxes due or if~~
11 ~~there are no state taxes due of the taxpayer, the amount of the~~
12 ~~claim not used as an offset against the taxes of a taxable year may~~
13 ~~be carried forward as a credit against subsequent tax liability for~~
14 ~~a period not to exceed three (3) years. No investor in a venture~~
15 ~~capital company organized after July 1, 1992, may claim tax credits~~
16 ~~under the provisions of this section.~~

17 D. No taxpayer may claim the credit provided for in subsection
18 A of this section for investments in qualified venture capital
19 companies made prior to January 1, 1987.

20 E. ~~No investor whose capital is guaranteed by the Oklahoma~~
21 ~~Capital Investment Board may claim or transfer the credit provided~~
22 ~~for in subsection A of this section for investments in such~~
23 ~~guaranteed portfolio.~~

24

1 ~~F.~~ The credit provided for in subsection A of this section, to
2 the extent not previously utilized, shall be freely transferable to
3 and by subsequent transferees for a period of three (3) years from
4 the date of investment in the Oklahoma business venture.

5 ~~G.~~ F. If a pass-through entity is entitled to a credit under
6 this section, the pass-through entity shall allocate such credit to
7 one or more of the shareholders, partners or members of the pass-
8 through entity; provided, the total of all credits allocated shall
9 not exceed the amount of the credit to which the pass-through entity
10 is entitled. The credit may also be claimed for funds borrowed by
11 the pass-through entity to make a qualified investment if a
12 shareholder, partner or member to whom the credit is allocated has
13 an unlimited and continuing legal obligation to repay the borrowed
14 funds but the allocation may not exceed such shareholder's,
15 partner's or member's pro-rata equity share of the pass-through
16 entity even if the taxpayer's legal obligation to repay the borrowed
17 funds is in excess of such pro-rata share of such borrowed funds.
18 For purposes of ~~this act~~ the Oklahoma Income Tax Act, "pass-through
19 entity" means a corporation that for the applicable tax years is
20 treated as an S corporation under the Internal Revenue Code of 1986,
21 as amended, general partnership, limited partnership, limited
22 liability partnership, trust or limited liability company that for
23 the applicable tax year is not taxed as a corporation for federal
24 income tax purposes.

1 SECTION 2. AMENDATORY 74 O.S. 2021, Section 85.42, is
2 amended to read as follows:

3 Section 85.42. A. 1. Except as otherwise provided for in this
4 section or other applicable law, any agency, whether or not such
5 agency is subject to the Oklahoma Central Purchasing Act, is
6 prohibited from entering into a sole source contract or a contract
7 for professional services with or for the services of any person,
8 who has terminated employment with or who has been terminated by
9 that agency for one (1) year after the termination date of the
10 employee from the agency. The provisions of this subsection shall
11 not prohibit an agency from hiring or rehiring such person as a
12 state employee.

13 2. Any chief administrative officer of an agency, whether or
14 not such agency is subject to the Oklahoma Central Purchasing Act,
15 shall not enter into any contract for nonprofessional or
16 professional services for the purpose of or which would result in
17 the circumvention of the full-time equivalent employee limitation
18 established by law for such agency.

19 B. Each contract entered into by any person or firm with ~~the~~
20 ~~State of Oklahoma~~ this state shall include a statement certifying
21 that no person who has been involved in any manner in the
22 development of that contract while employed by the state shall be
23 employed to fulfill any of the services provided for under the
24 contract. This subsection shall not preclude faculty and staff of

1 the institutions within The Oklahoma State System of Higher
2 Education from negotiating and participating in research grants and
3 educational contracts. ~~Nor shall this subsection apply to Oklahoma~~
4 ~~Department of Commerce personnel who contract to provide services to~~
5 ~~the Oklahoma Capital Investment Board.~~

6 C. As used in this section, ~~person~~ "person" is defined as any
7 state official or employee of a department, board, bureau,
8 commission, agency, trusteeship, authority, council, committee,
9 trust, school district, fair board, court, executive office,
10 advisory group, task force, study group, supported in whole or in
11 part by public funds or entrusted with the expenditure of public
12 funds or administering or operating public property, and all
13 committees, or subcommittees thereof, judges, justices and state
14 legislators.

15 D. Notwithstanding anything to the contrary in this section,
16 the following sole source or professional services contracts are
17 allowed at any time:

18 1. A contract for professional services at any time with a
19 person who is a qualified interpreter for the deaf; and

20 2. A contract between a business entity that is a part-time
21 certified court reporter and the Administrative Office of the
22 Courts, on behalf of the district courts, or the Office of the
23 Attorney General.

24

1 E. Provided the provisions specified in subsection B of this
2 section are satisfied, the following professional services contracts
3 are allowed:

4 1. The Department of Transportation, Oklahoma Water Resources
5 Board, Department of Environmental Quality, Oklahoma Tourism and
6 Recreation Department, the Oklahoma Turnpike Authority and the
7 Oklahoma Department of Agriculture, Food, and Forestry may contract
8 with a person who has retired from state service;

9 2. To maintain public health infrastructure and preparedness,
10 the State Department of Health and city-county health departments
11 may contract with a physician assistant, ~~registered nurse~~ Registered
12 Nurse, advanced practice nurse, ~~nurse-midwife~~ Nurse-Midwife,
13 registered dietician, occupational therapist, physical therapist or
14 speech-language pathologist who has retired from state service; and

15 3. The Department of Mental Health and Substance Abuse Services
16 may contract with a physician, ~~registered nurse~~ Registered Nurse,
17 registered pharmacist or person meeting the definition of a licensed
18 mental health professional, as defined in Title 43A of the Oklahoma
19 Statutes, who has separated and/or retired from state service.

20 SECTION 3. AMENDATORY 74 O.S. 2021, Section 3601.1, as
21 last amended by Section 36, Chapter 29, O.S.L. 2023 (74 O.S. Supp.
22 2024, Section 3601.1), is amended to read as follows:

23 Section 3601.1. A. For purposes of Sections 3601.1 through
24 3603 of this title, the term "employee" means a full-time employee

1 or any number of part-time employees whose combined weekly hours of
 2 employment equal those of a full-time employee, but shall not
 3 include temporary employees working on a seasonal basis between May
 4 1 and October 31.

5 B. Beginning July 1, 2008, the maximum number of full-time-
 6 equivalent employees for each of the following agencies, boards,
 7 commissions, departments, or programs shall not exceed the numbers
 8 specified in this section, except as may be authorized pursuant to
 9 the provisions of Section 3603 of this title.

	MAXIMUM NUMBER OF FULL-TIME-EQUIVALENT EMPLOYEES
Oklahoma Employment Security Commission	1150
Oklahoma Accountancy Board	11
Board of Governors of the Licensed Architects, Landscape Architects and Registered Commercial <u>Licensed</u> Interior Designers of Oklahoma	4
Board of Chiropractic Examiners	3
State Board of Cosmetology and Barbering	16
Board of Dentistry	10
Oklahoma Funeral Board	5
State Board of Licensure for Professional Engineers and Land Surveyors	10

1	State Board of Medical Licensure and Supervision/ Board of Podiatric Medical Examiners/State Board of Examiners of Perfusionists	29
4	Oklahoma Energy Resources Board	5
5	Oklahoma New Motor Vehicle Commission	6
6	Oklahoma Board of Nursing	35
7	Oklahoma State Board of Examiners for Long-Term Care Administrators	4
9	Board of Examiners in Optometry	3
10	State Board of Osteopathic Examiners	7
11	State Board of Pharmacy	15
12	State Board of Examiners of Psychologists	2
13	Oklahoma Real Estate Commission	26
14	Board of Examiners for Speech-Language Pathology and Audiology	2
16	Oklahoma Used Motor Vehicle, Dismantler, and Manufactured Housing Commission	15
18	State Board of Veterinary Medical Examiners	6
19	Oklahoma Firefighters Pension and Retirement System	13
21	Oklahoma Police Pension and Retirement System	12
22	Teachers' Retirement System of Oklahoma	52
23	Oklahoma Public Employees Retirement System	63
24	Oklahoma Student Loan Authority	85

1	<u>The Oklahoma Industrial Finance</u>	
2	Authority/Oklahoma Development Finance	
3	Authority	10
4	State and Education Employees Group Insurance	
5	Board	178
6	Oklahoma Capital Investment Board	4
7	State Board of Licensed Social Workers	1
8	Oklahoma State Employees Benefits Council	38
9	Banking Department	46
10	Liquefied Petroleum Gas Administration	10

11 C. The duties and compensation of employees, not otherwise
12 prescribed by law, necessary to perform the duties imposed upon the
13 Oklahoma Public Employees Retirement System Board of Trustees by law
14 shall be set by the Board of Trustees.

15 D. Temporary employees of the Oklahoma Used Motor Vehicle,
16 Dismantler, and Manufactured Housing Commission between the dates of
17 November 1 and January 31 annually shall not be counted toward the
18 maximum number of full-time-equivalent employees provided for in
19 this section.

20 SECTION 4. REPEALER 74 O.S. 2021, Sections 5085.1
21 through 5085.16, are hereby repealed.

22 SECTION 5. This act shall become effective November 1, 2025.

23 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT, WORKFORCE
AND TOURISM
24 February 19, 2025 - DO PASS AS AMENDED