

ENGROSSED HOUSE  
BILL NO. 1122

By: Hiatt, Peters, Nance and  
Davis of the House

and

Coffee of the Senate

An Act relating to revenue and taxation; requiring Oklahoma Tax Commission to provide an opportunity for taxpayers to donate from tax refunds for benefit of local school districts; specifying distribution of monies generated; creating the Local School District Tax Donation Revolving Fund; providing for claim for error in donation of refund; amending 68 O.S. 2001, Section 2357.7, which relates to tax credits; extending authorization for certain tax credit; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2368.5 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Tax Commission shall include on each state individual tax return form for tax years beginning after December 31, 2003, and each state corporate tax return form for tax years beginning after December 31, 2003, an opportunity for the taxpayer to donate from a tax refund for the benefit of a local school district as designated by the taxpayer.

B. Except as otherwise provided for in this section, the monies generated from donations made pursuant to subsection A of this section shall be paid to the State Treasurer by the Oklahoma Tax Commission and placed to the credit of the Local School District Tax Donation Revolving Fund created in subsection C of this section.

C. There is hereby created in the State Treasury, a revolving fund to be designated the "Local School District Tax Donation

Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies transferred thereto by subsection A of this section. At the beginning of each fiscal year, all monies accruing to the credit of the fund are hereby appropriated and shall be distributed by the State Treasurer to each local school district to which donations were made.

D. If a taxpayer makes a donation pursuant to subsection A of this section in error, such taxpayer may file a claim for refund at any time within three (3) years from the due date of the tax return. Such claims shall be filed pursuant to the provisions of Section 2373 of Title 68 of the Oklahoma Statutes. Prior to the apportionment set forth in this section, an amount equal to the total amount of refunds made pursuant to this subsection during any one (1) year shall be deducted from the total donations received pursuant to this section during the following year and such amount deducted shall be paid to the State Treasurer and placed to the credit of the Income Tax Withholding Refund Account.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 2357.7, is amended to read as follows:

Section 2357.7 A. For taxable years beginning after December 31, 1986, and before January 1, ~~2004~~ 2009, there shall be allowed a credit against the tax imposed by Section 2355 of this title or Section 624 of Title 36 of the Oklahoma Statutes for investments in qualified venture capital companies whose purpose is to establish or expand the development of business and industry within Oklahoma. Provided, tax credits against liabilities imposed pursuant to Section 624 of Title 36 of the Oklahoma Statutes shall be limited to the amount that would otherwise be collected and allocated to the General Revenue Fund of the State Treasury.

B. For purposes of this section:

1. "Qualified venture capital company" means a C corporation, as defined by the Internal Revenue Code of 1986, as amended, incorporated pursuant to the laws of Oklahoma or a registered business partnership with a certificate of partnership filed as required by law if such corporation or partnership is organized to provide the direct investment of debt and equity funds to companies within this state, with its principal place of business located within this state and which meets the following criteria:

- a. capitalization of not less than Five Million Dollars (\$5,000,000.00),
- b. having a purpose and objective of investing at least a portion, as specified herein, of its capitalization in Oklahoma business ventures. Such portion shall be at least fifty-five percent (55%) for capitalization occurring before January 1, 1999, and at least seventy-five percent (75%) for capitalization occurring on and after January 1, 1999. Investment capital received by such venture capital company shall be invested pursuant to said objective within five (5) years after receipt of such capital. Provided, of the portion of capitalization required to be invested in Oklahoma business ventures, as specified herein, ten percent (10%) of capitalization may be reserved for additional investment, within ten (10) years after receipt of capital, in portfolio companies which are Oklahoma business ventures. The temporary investment of funds by a qualified venture capital company in obligations of the United States, state and municipal bonds, bank certificates of deposit, or money market securities pending investment in Oklahoma business ventures is hereby authorized, and

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

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

- a. has or will have, immediately after a loan or investment is made by a qualified venture capital company, at least fifty percent (50%) of its employees or assets located in Oklahoma,
- b. needs financial assistance in order to commence or expand such business which provides or intends to provide goods or services, and
- c. is not engaged in oil and gas exploration, real estate development, real estate sales, retail sales of food or clothing, farming, ranching, banking, or lending or investing funds in other businesses. Provided, however, businesses which provide or intend to provide goods or services, including, but not limited to, goods or services involving new technology, equipment, or techniques to such businesses listed in this subparagraph, and investments in the development of tourism facilities in the form of amusement parks, entertainment parks, theme parks, golf courses, or museums shall not be subject to said prohibition;

3. "Direct investment" means the purchase of securities of a private company, or securities of a public company if the securities constitute a new issue of a public company and such public company had previous year sales of less than Ten Million Dollars (\$10,000,000.00); and

4. "Debt and equity funds" means investments in debt securities; including unsecured, undersecured, subordinated or convertible loans or debt securities; and/or equity securities, including common and preferred stock, royalty rights, limited

partnership interest, and any other securities or rights that evidence ownership in businesses.

C. The credit provided for in subsection A of this section shall be twenty percent (20%) of the cash amount invested in qualified venture capital companies. The Oklahoma Capital Investment Board shall have the authority to certify an entity as a qualified venture capital company and to certify an investment to be a qualifying Oklahoma business venture for purposes of complying with subsection B of this section. Such certification shall be binding on the Oklahoma Tax Commission. Such certification shall not be mandatory but may be requested by any entity that desires to be certified. A reasonable certification fee may be charged by the Oklahoma Capital Investment Board for this service. If the tax credit allowed pursuant to subsection A of this section exceeds the amount of taxes due or if there are no state taxes due of the taxpayer, the amount of the claim not used as an offset against the taxes of a taxable year may be carried forward as a credit against subsequent tax liability for a period not to exceed three (3) years. No investor in a venture capital company organized after July 1, 1992, may claim tax credits under the provisions of this section.

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

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

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

SECTION 3. This act shall become effective November 1, 2003.

Passed the House of Representatives the 13th day of March, 2003.

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Presiding Officer of the House of  
Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2003.

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Presiding Officer of the Senate