

1 ENGROSSED SENATE
2 BILL NO. 2112

By: Wilson and Garrison of the
Senate

3 and

4 DeWitt and McNiell of the
5 House

6
7
8 [revenue and taxation - expanding tax types -
9 modifying limitation on credit - defining term -
10 Bootstrap Endowment Fund - codification -
11 effective dates]

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 68 O.S. 2001, Section 2357.73, as
15 last amended by Section 19, Chapter 281, O.S.L. 2006 (68 O.S. Supp.
16 2007, Section 2357.73), is amended to read as follows:

17 Section 2357.73 A. For taxable years beginning after December
18 31, 2000, and before January 1, 2012, there shall be allowed a
19 credit against the tax imposed by Section 2355 or, effective January
20 1, 2001, Section 2370 of this title or, effective July 1, 2001,
21 against the tax imposed by Section 624 or 628 of Title 36 of the
22 Oklahoma Statutes, for qualified investment in qualified rural small
23 business capital companies; provided, effective January 1, 2009,
24 there shall be allowed a credit against the taxes imposed by Section

1 1001 of this title if the credit is taken for a qualified investment
2 in a qualified rural small business capital company which results in
3 the acquisition of another legal entity and meets the conditions of
4 subsection D of this section.

5 B. The credit provided for in subsection A of this section
6 shall be thirty percent (30%) of the amount of a qualified
7 investment in qualified rural small business capital companies which
8 is subsequently invested in an Oklahoma rural small business venture
9 by the qualified rural small business capital company and may only
10 be claimed for a taxable year during which the qualified rural small
11 business capital company makes the qualified investment in an
12 Oklahoma rural small business venture if the funds are used in
13 pursuit of a legitimate business purpose of the Oklahoma rural small
14 business venture consistent with its organizational instrument,
15 bylaws or other agreement responsible for the governance of the
16 rural small business venture. The qualified rural small business
17 capital company shall issue such reports as the Oklahoma Tax
18 Commission may require attributing the source of funds of each
19 qualified investment it makes in an Oklahoma rural small business
20 venture. If the tax credit exceeds the amount of taxes due or if
21 there are no state taxes due of the taxpayer, the amount of the
22 claim not used as an offset against the taxes of a taxable year may
23 be carried forward for a period not to exceed three (3) taxable
24 years.

1 C. No taxpayer may claim the credit provided for in this
2 section for qualified investments in qualified rural small business
3 capital companies made prior to January 1, 2001.

4 D. No taxpayer may claim the credit provided for in this
5 section if the capital provided by a qualified rural small business
6 capital company is used by an Oklahoma rural small business venture
7 for the acquisition of any other legal entity unless, after the
8 effective date of this section, the following conditions are met:

9 1. The legal entity acquired or being acquired is relocating
10 within this state from outside the state; and

11 2. Within twelve (12) months after the acquisition, the legal
12 entity has resulted in at least ten new direct jobs.

13 For purposes of this paragraph, "new direct job" means full-
14 time-equivalent employment in this state for the legal entity
15 acquired at a salary, excluding benefits which are not subject to
16 Oklahoma income taxes, equal to one hundred percent (100%) of the
17 median county wage as identified by the Oklahoma Census Data Center
18 based upon the most recent available data from the Census Bureau or
19 the American Community Survey for the county in which the jobs are
20 located.

21 E. No financial lending institution shall be eligible to claim
22 the credit provided for in this section except with respect to
23 qualified investments in a qualified rural small business capital
24 company.

1 F. No taxpayer may claim the credit authorized by this section
2 for the same qualified investment amount for which any credit is
3 claimed pursuant to either Section 2357.62 or 2357.63 of this title.

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

22 SECTION 2. AMENDATORY 68 O.S. 2001, Section 1004, as
23 last amended by Section 55, Chapter 1, O.S.L. 2007 (68 O.S. Supp.
24 2007, Section 1004), is amended to read as follows:

1 Section 1004. A. Beginning July 1, 2002, the gross production
2 tax provided for in Section 1001 of this title is hereby levied and
3 shall be collected and apportioned as follows:

4 1. For all monies collected from the tax levied on asphalt or
5 ores bearing uranium, lead, zinc, jack, gold, silver or copper:

6 a. eighty-five and seventy-two one-hundredths percent
7 (85.72%) shall be paid to the State Treasurer of the
8 state to be placed in the General Revenue Fund of the
9 state and used for the general expense of state
10 government, to be paid out pursuant to direct
11 appropriation by the Legislature,

12 b. seven and fourteen one-hundredths percent (7.14%) of
13 the sum collected from natural gas and/or casinghead
14 gas or asphalt or ores bearing uranium, lead, zinc,
15 jack, gold, silver or copper shall be paid to the
16 various county treasurers to be credited to the County
17 Highway Fund as follows: Each county shall receive a
18 proportionate share of the funds available based upon
19 the proportion of the total value of production from
20 such county in the corresponding month of the
21 preceding year, and

22 c. seven and fourteen one-hundredths percent (7.14%)
23 shall be allocated to each county as provided for in
24 subparagraph b of this paragraph and shall be

1 apportioned, on an average daily attendance per capita
2 distribution basis, as certified by the State
3 Superintendent of Public Instruction to the school
4 districts of the county where such pupils attend
5 school regardless of residence of such pupil, provided
6 the school district makes an ad valorem tax levy of
7 fifteen (15) mills for the current year and maintains
8 twelve (12) years of instruction;

9 2. For all monies collected from the tax levied on natural gas
10 and/or casinghead gas at a tax rate of seven percent (7%) pursuant
11 to the provisions of subsection B of Section 1001 of this title:

12 a. eighty-five and seventy-two one-hundredths percent
13 (85.72%) shall be paid to the State Treasurer of the
14 state to be placed in the General Revenue Fund of the
15 state and used for the general expense of state
16 government, to be paid out pursuant to direct
17 appropriation by the Legislature,

18 b. seven and fourteen one-hundredths percent (7.14%) of
19 the sum collected from natural gas and/or casinghead
20 gas shall be paid to the various county treasurers to
21 be credited to the County Highway Fund as follows:
22 Each county shall receive a proportionate share of the
23 funds available based upon the proportion of the total

1 value of production from such county in the
2 corresponding month of the preceding year, and
3 c. seven and fourteen one-hundredths percent (7.14%)
4 shall be allocated to each county as provided for in
5 subparagraph b of this paragraph and shall be
6 apportioned, on an average daily attendance per capita
7 distribution basis, as certified by the State
8 Superintendent of Public Instruction to the school
9 districts of the county where such pupils attend
10 school regardless of residence of such pupil, provided
11 the school district makes an ad valorem tax levy of
12 fifteen (15) mills for the current year and maintains
13 twelve (12) years of instruction;

14 3. For all monies collected from the tax levied on natural gas
15 and/or casinghead gas at a tax rate of four percent (4%) pursuant to
16 the provisions of subsection B of Section 1001 of this title:

- 17 a. seventy-five percent (75%) shall be paid to the State
18 Treasurer of the state to be placed in the General
19 Revenue Fund of the state and used for the general
20 expense of state government, to be paid out pursuant
21 to direct appropriation by the Legislature,
22 b. twelve and one-half percent (12.5%) of the sum
23 collected from natural gas and/or casinghead gas shall
24 be paid to the various county treasurers to be

1 credited to the County Highway Fund as follows: Each
2 county shall receive a proportionate share of the
3 funds available based upon the proportion of the total
4 value of production from such county in the
5 corresponding month of the preceding year, and

6 c. twelve and one-half percent (12.5%) shall be allocated
7 to each county as provided for in subparagraph b of
8 this paragraph and shall be apportioned, on an average
9 daily attendance per capita distribution basis, as
10 certified by the State Superintendent of Public
11 Instruction to the school districts of the county
12 where such pupils attend school regardless of
13 residence of such pupil, provided the school district
14 makes an ad valorem tax levy of fifteen (15) mills for
15 the current year and maintains twelve (12) years of
16 instruction;

17 4. For all monies collected from the tax levied on natural gas
18 and/or casinghead gas at a tax rate of one percent (1%) pursuant to
19 the provisions of subsection B of Section 1001 of this title:

20 a. fifty percent (50%) of the sum collected from natural
21 gas and/or casinghead gas shall be paid to the various
22 county treasurers to be credited to the County Highway
23 Fund as follows: Each county shall receive a
24 proportionate share of the funds available based upon

1 the proportion of the total value of production from
2 such county in the corresponding month of the
3 preceding year, and

- 4 b. fifty percent (50%) shall be allocated to each county
5 as provided for in subparagraph a of this paragraph
6 and shall be apportioned, on an average daily
7 attendance per capita distribution basis, as certified
8 by the State Superintendent of Public Instruction to
9 the school districts of the county where such pupils
10 attend school regardless of residence of such pupil,
11 provided the school district makes an ad valorem tax
12 levy of fifteen (15) mills for the current year and
13 maintains twelve (12) years of instruction;

14 5. For all monies collected from the tax levied on oil at a tax
15 rate of seven percent (7%) pursuant to the provisions of subsection
16 B of Section 1001 of this title:

- 17 a. twenty-five and seventy-two one-hundredths percent
18 (25.72%) shall be paid to the State Treasurer to be
19 placed in the Common Education Technology Revolving
20 Fund created in Section 41.29c of Title 62 of the
21 Oklahoma Statutes,

- 22 b. twenty-five and seventy-two one-hundredths percent
23 (25.72%) shall be paid to the State Treasurer to be
24 placed in the Higher Education Capital Revolving Fund

1 created in Section 41.29d of Title 62 of the Oklahoma
2 Statutes,

3 c. twenty-five and seventy-two one-hundredths percent
4 (25.72%) shall be paid to the State Treasurer to be
5 placed in the Oklahoma Tuition Scholarship Revolving
6 Fund created in Section 41.29e of Title 62 of the
7 Oklahoma Statutes,

8 d. four and twenty-eight one-hundredths percent (4.28%)
9 shall be paid to the State Treasurer to be apportioned
10 to the County Bridge and Road Improvement Fund of the
11 State Treasury,

12 e. four and twenty-eight one-hundredths percent (4.28%)
13 shall be paid to the State Treasurer to be apportioned
14 to:

15 (1) the following sources and in the following
16 amounts for the fiscal year ending June 30, 2007,
17 through the fiscal year ending June 30, 2011:

18 (a) thirty-three and one-third percent (33 1/3%)
19 to the Oklahoma Tourism and Recreation
20 Department Capital Expenditure Revolving
21 Fund created pursuant to Section 2 of this
22 act,

23 (b) thirty-three and one-third percent (33 1/3%)
24 to the Oklahoma Conservation Commission

1 Infrastructure Revolving Fund created
2 pursuant to Section 3 of this act, and

3 (c) thirty-three and one-third percent (33 1/3%)
4 to the Community Water Infrastructure
5 Development Revolving Fund created pursuant
6 to Section 4 of this act, and

7 (2) the Oklahoma Water Resources Board Rural Economic
8 Action Plan Water Projects Fund for the fiscal
9 year ending June 30, 2012, and for each fiscal
10 year thereafter,

11 f. seven and fourteen one-hundredths percent (7.14%) of
12 the sum collected from oil shall be paid to the
13 various county treasurers, to be credited to the
14 County Highway Fund as follows: Each county shall
15 receive a proportionate share of the funds available
16 based upon the proportion of the total value of
17 production from such county in the corresponding month
18 of the preceding year, and

19 g. seven and fourteen one-hundredths percent (7.14%)
20 shall be allocated to each county as provided in
21 subparagraph f of this paragraph and shall be
22 apportioned, on an average daily attendance per capita
23 distribution basis, as certified by the State
24 Superintendent of Public Instruction, to the school

1 districts of the county where such pupils attend
2 school regardless of residence of such pupil, provided
3 the school district makes an ad valorem tax levy of
4 fifteen (15) mills for the current year and maintains
5 twelve (12) years of instruction;

6 6. For all monies collected from the tax levied on oil at a tax
7 rate of four percent (4%) pursuant to the provisions of subsection B
8 of Section 1001 of this title:

9 a. twenty-two and one-half percent (22.5%) shall be paid
10 to the State Treasurer to be placed in the Common
11 Education Technology Revolving Fund created in Section
12 41.29c of Title 62 of the Oklahoma Statutes,

13 b. twenty-two and one-half percent (22.5%) shall be paid
14 to the State Treasurer to be placed in the Higher
15 Education Capital Revolving Fund created in Section
16 41.29d of Title 62 of the Oklahoma Statutes,

17 c. twenty-two and one-half percent (22.5%) shall be paid
18 to the State Treasurer to be placed in the Oklahoma
19 Tuition Scholarship Revolving Fund created in Section
20 41.29e of Title 62 of the Oklahoma Statutes,

21 d. three and seventy-five one-hundredths percent (3.75%)
22 shall be paid to the State Treasurer to be apportioned
23 to the County Bridge and Road Improvement Fund of the
24 State Treasury,

1 e. three and seventy-five one-hundredths percent (3.75%)
2 shall be paid to the State Treasurer to be apportioned
3 to:

4 (1) the following sources and in the following
5 amounts for the fiscal year ending June 30, 2007,
6 through the fiscal year ending June 30, 2011:

7 (a) thirty-three and one-third percent (33 1/3%)
8 to the Oklahoma Tourism and Recreation
9 Department Capital Expenditure Revolving
10 Fund created pursuant to Section 2 of this
11 act,

12 (b) thirty-three and one-third percent (33 1/3%)
13 to the Oklahoma Conservation Commission
14 Infrastructure Revolving Fund created
15 pursuant to Section 3 of this act, and

16 (c) thirty-three and one-third percent (33 1/3%)
17 to the Community Water Infrastructure
18 Development Revolving Fund created pursuant
19 to Section 4 of this act, and

20 (2) the Oklahoma Water Resources Board Rural Economic
21 Action Plan Water Projects Fund for the fiscal
22 year ending June 30, 2012, and for each fiscal
23 year thereafter,
24

1 f. twelve and one-half percent (12.5%) of the sum
2 collected from oil shall be paid to the various county
3 treasurers, to be credited to the County Highway Fund
4 as follows: Each county shall receive a proportionate
5 share of the funds available based upon the proportion
6 of the total value of production from such county in
7 the corresponding month of the preceding year, and

8 g. twelve and one-half percent (12.5%) shall be allocated
9 to each county as provided in subparagraph f of this
10 paragraph and shall be apportioned on an average daily
11 attendance per capita distribution basis, as certified
12 by the State Superintendent of Public Instruction, to
13 the school districts of the county where such pupils
14 attend school regardless of residence of such pupil,
15 provided the school district makes an ad valorem tax
16 levy of fifteen (15) mills for the current year and
17 maintains twelve (12) years of instruction; and

18 7. For all monies collected from the tax levied on oil at a tax
19 rate of one percent (1%) pursuant to the provisions of subsection B
20 of Section 1001 of this title:

21 a. fifty percent (50%) of the sum collected shall be paid
22 to the various county treasurers, to be credited to
23 the County Highway Fund as follows: Each county shall
24 receive a proportionate share of the funds available

1 based upon the proportion of the total value of
2 production from such county in the corresponding month
3 of the preceding year, and

4 b. fifty percent (50%) shall be allocated to each county
5 as provided for in subparagraph a of this paragraph
6 and shall be apportioned on an average daily
7 attendance per capita distribution basis, as certified
8 by the State Superintendent of Public Instruction, to
9 the school districts of the county where such pupils
10 attend school regardless of residence of such pupil,
11 provided the school district makes an ad valorem tax
12 levy of fifteen (15) mills for the current year and
13 maintains twelve (12) years of instruction.

14 B. Provided, notwithstanding any other provision of this
15 section, the total amounts deposited to the Common Education
16 Technology Revolving Fund, the Higher Education Capital Revolving
17 Fund, the Oklahoma Tuition Scholarship Revolving Fund, the Rural
18 Economic Action Plan Water Projects Fund, the Oklahoma Tourism and
19 Recreation Department Capital Expenditure Revolving Fund, the
20 Oklahoma Conservation Commission Infrastructure Revolving Fund and
21 the Community Water Infrastructure Development Revolving Fund
22 pursuant to paragraphs 5 and 6 of this section shall not exceed One
23 Hundred Fifty Million Dollars (\$150,000,000.00) in any fiscal year.
24 All sums in excess of One Hundred Fifty Million Dollars

1 (\$150,000,000.00) in any fiscal year which would otherwise be
2 deposited in such funds shall be placed by the State Treasurer in
3 the General Revenue Fund of the state.

4 C. 1. Beginning July 1, 2009, prior to the apportionment of
5 any tax as provided for in subsection A of this section, an amount
6 specified in paragraph 2 of this subsection of the gross production
7 tax levied and collected pursuant to Section 1001 of this title
8 shall be paid to the State Treasurer to be placed in the Bootstrap
9 Endowment Fund as created in Section 3 of this act.

10 2. As provided in paragraph 1 of this subsection, a portion of
11 the gross production tax shall be placed in the Bootstrap Endowment
12 Fund as follows:

13 a. One percent (1%) for the fiscal year beginning on July
14 1, 2009;

15 b. Two percent (2%) for the fiscal year beginning on July
16 1, 2010;

17 c. Three percent (3%) for the fiscal year beginning on
18 July 1, 2011;

19 d. Four percent (4%) for the fiscal year beginning on
20 July 1, 2012; and

21 e. Five percent (5%) for the fiscal year beginning on
22 July 1, 2013 and all fiscal years thereafter.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 53 of Title 62, unless there is
3 created a duplication in numbering, reads as follows:

4 A. There is hereby created an endowment fund to be known as the
5 "Bootstrap Endowment Fund". The endowment fund principal shall
6 consist of funds apportioned pursuant to subsection C of Section
7 1004 of Title 68 of the Oklahoma Statutes for the purpose of
8 creating an endowment for the operations of state government.

9 Notwithstanding any other provisions of law, income and investment
10 return on endowment fund principal shall accrue to the endowment
11 fund.

12 B. The Bootstrap Endowment Fund shall be invested by the State
13 Treasurer as authorized in Section 89.2 of Title 62 of the Oklahoma
14 Statutes; provided, investments in obligations of state and local
15 governments, pursuant to paragraph 6 of subsection A of Section
16 89.2, shall not exceed five percent (5%) of the cash available for
17 investment.

18 C. There is hereby created in the State Treasury a revolving
19 fund to be designated the "Bootstrap Revolving Fund". The fund
20 shall be a continuing fund, not subject to fiscal year limitations,
21 and shall consist of all such transfers made pursuant to subsection
22 D of this section. All monies accruing to the credit of such fund
23 are hereby appropriated and may be budgeted and expended beginning
24 with the fiscal year beginning July 1, 2025, and each fiscal year

1 thereafter, for operations of state government in the same manner as
2 the General Revenue Fund is budgeted and expended. No more than
3 five percent (5%) of monies from the Bootstrap Revolving Fund shall
4 be budgeted or expended for debt service payments of principal and
5 interest due on outstanding bonds or other financing instruments
6 issued by the State of Oklahoma, any Oklahoma counties,
7 municipalities, state agencies, authorities, commissions, political
8 subdivisions or any other governmental entities. Monies from the
9 Bootstrap Revolving Fund shall not be dedicated or earmarked for a
10 specific use outside the appropriations process. Expenditures from
11 such fund shall be made upon warrants issued by the State Treasurer
12 against claims filed as prescribed by law with the Director of State
13 Finance for approval and payment.

14 D. On July 1, 2025, and on July 1 each year thereafter, four
15 percent (4%) of the total balance of the Bootstrap Endowment Fund
16 shall be transferred to the Bootstrap Revolving Fund and shall be
17 certified by the State Board of Equalization as part of the total
18 amount of revenue which will accrue during the last applicable
19 fiscal year.

20 SECTION 4. Sections 2 and 3 of this act shall become effective
21 November 1, 2008.

22 SECTION 5. Section 1 of this act shall become effective January
23 1, 2009.

24

1 Passed the Senate the 11th day of March, 2008.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2008.

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8 _____
9 Presiding Officer of the House
10 of Representatives