

1 ENGROSSED HOUSE  
2 BILL NO. 3422

By: Miller, Murphey, Scott and  
Tibbs of the House

3 and

4 Jolley of the Senate

5  
6  
7  
8 ( public finance - amending Sections in Titles 62 and  
9 68 - Taxpayer Transparency Act - website -  
10 effective date -  
11 emergency )

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

15 SECTION 1. AMENDATORY Section 1, Chapter 327, O.S.L.  
16 2007 (62 O.S. Supp. 2009, Section 46), is amended to read as  
17 follows:

18 Section 46. A. This act shall be known and may be cited as the  
19 "Taxpayer Transparency Act."

20 B. As used in the Taxpayer Transparency Act:

21 1. "Single website" means a website that allows the public to  
22 access information identified in subsection C of this section  
23 without any fee or charge to the public for such access;

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1           2. "Expenditure of state funds" means the disbursement of all  
2 state funds regardless of amount of expenditure, whether  
3 appropriated or nonappropriated, excluding:

- 4           a. the transfer of funds between two state agencies,
- 5           b. payments of state or federal assistance to an  
6           individual,
- 7           c. child support payments, and
- 8           d. refunds issued by the Oklahoma Tax Commission  
9           resulting from the overpayment of tax;

10           3. "Incentive payments" means payments made under the Oklahoma  
11 Quality Jobs Program Act, Saving Quality Jobs Act, Oklahoma Quality  
12 Jobs Incentive Leverage Act, Small Employer Quality Jobs Incentive  
13 Act, Oklahoma Specialized Quality Investment Act and Oklahoma  
14 Quality Investment Act; and

15           4. "Tax credit" means a credit pursuant to the Oklahoma Income  
16 Tax Act against tax liability which is taken by a taxpayer,  
17 excluding credits authorized under paragraphs 1 and 2 of subsection  
18 B of Section 2357 and Sections 2357.29 and 2357.43 of Title 68 of  
19 the Oklahoma Statutes.

20           C. No later than January 1, 2008, the Office of State Finance  
21 shall develop and operate a single website accessible by the public.  
22 The website shall include aggregate information on state revenue,  
23 expenditures and incentive payments and information on state tax  
24 preferences as contained in the tax expenditure report published by

1 the Oklahoma Tax Commission pursuant to subsection E of Section 205  
2 of Title 68 of the Oklahoma Statutes. No later than January 1,  
3 2009, the website shall include search capabilities.

4 D. Effective January 1, 2011, the Office of State Finance shall  
5 update the website with "Open Books 2.0," an expanded online  
6 database through which each individual expenditure shall be listed  
7 individually separate of aggregated amount. The information shall  
8 be searchable by term including name of recipient, entity making  
9 expenditure and date of expenditure. The website shall allow  
10 members of the public to export sets of data produced by search  
11 query in a standardized exportable form. No later than eighteen  
12 (18) months after "Open Books 2.0" is online, the Office of State  
13 Finance shall create an online archive for each fiscal year,  
14 beginning with Fiscal Year 2011, which shall be accessible and  
15 searchable to online users.

16 E. As soon as practicable after January 1, 2008, such website  
17 shall also include, but not be limited to:

- 18 1. For the expenditure of state funds or incentive payments:
- 19 a. the name and principal location of the entity and/or  
20 recipients of the funds, excluding release of  
21 information relating to an individual's place of  
22 residence, release of information prohibited by  
23 subsection D of Section 24A.7 of Title 51 of the  
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- 1 Oklahoma Statutes or by federal law relating to  
2 privacy rights,  
3 b. the amount of state funds expended,  
4 c. the type of transaction,  
5 d. the funding or expending agency, and  
6 e. a descriptive purpose of the funding action or  
7 expenditure; and

8 2. For each tax credit, information, including but not limited  
9 to:

- 10 a. the name of each taxpayer to which a credit has been  
11 granted,  
12 b. the amount of such credit, and  
13 c. the specific provision under which a credit has been  
14 granted.

15 ~~F.~~ F. The single website provided for in subsection C of this  
16 section shall include data on state revenue, expenditures and  
17 incentive payments for the fiscal year 2007 and each fiscal year  
18 thereafter and on state tax credits for tax year 2007 and each tax  
19 year thereafter. Such data shall be available on the single website  
20 no later than one hundred twenty (120) days after the last day of  
21 the preceding fiscal year.

22 ~~F.~~ G. The Oklahoma Tax Commission, the Office of the State  
23 Treasurer, all institutions of The Oklahoma State System of Higher  
24 Education and any other state agency shall provide to the Office of

1 State Finance such information as is necessary to accomplish the  
2 purposes of this act.

3 ~~G.~~ H. So that the Tax Commission may fulfill its obligations as  
4 required by this section, all recipients of tax credits, as that  
5 term is defined herein, shall file their reports or returns claiming  
6 the tax credits in an electronic format, as may be required by the  
7 Tax Commission. The Tax Commission may disallow any claim of a  
8 person for a tax credit due to its failure to file a report or  
9 return as required under the authority of this paragraph.

10 ~~H.~~ I. Nothing in this act shall require the disclosure of  
11 information which is required to be confidential by state or federal  
12 law.

13 ~~I.~~ J. The disclosure of information required by this section  
14 shall create no liability whatsoever, civil or criminal, to the  
15 State of Oklahoma or any member of the Office of State Finance or  
16 any employee thereof for disclosure of the information or for any  
17 error or omission in the disclosure.

18 SECTION 2. AMENDATORY 68 O.S. 2001, Section 205, as last  
19 amended by Section 2, Chapter 426, O.S.L. 2009 (68 O.S. Supp. 2009,  
20 Section 205), is amended to read as follows:

21 Section 205. A. The records and files of the Oklahoma Tax  
22 Commission concerning the administration of the Uniform Tax  
23 Procedure Code or of any state tax law shall be considered  
24 confidential and privileged, except as otherwise provided for by

1 law, and neither the Tax Commission nor any employee engaged in the  
2 administration of the Tax Commission or charged with the custody of  
3 any such records or files nor any person who may have secured  
4 information from the Tax Commission shall disclose any information  
5 obtained from the records or files or from any examination or  
6 inspection of the premises or property of any person.

7 B. Except as provided in paragraph 26 of subsection C of this  
8 section, neither the Tax Commission nor any employee engaged in the  
9 administration of the Tax Commission or charged with the custody of  
10 any such records or files shall be required by any court of this  
11 state to produce any of the records or files for the inspection of  
12 any person or for use in any action or proceeding, except when the  
13 records or files or the facts shown thereby are directly involved in  
14 an action or proceeding pursuant to the provisions of the Uniform  
15 Tax Procedure Code or of the state tax law, or when the  
16 determination of the action or proceeding will affect the validity  
17 or the amount of the claim of the state pursuant to any state tax  
18 law, or when the information contained in the records or files  
19 constitutes evidence of violation of the provisions of the Uniform  
20 Tax Procedure Code or of any state tax law.

21 C. The provisions of this section shall not prevent the Tax  
22 Commission from disclosing the following information and no  
23 liability whatsoever, civil or criminal, shall attach to any member  
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1 of the Tax Commission or any employee thereof for any error or  
2 omission in the disclosure of such information:

3 1. The delivery to a taxpayer or a duly authorized  
4 representative of the taxpayer of a copy of any report or any other  
5 paper filed by the taxpayer pursuant to the provisions of the  
6 Uniform Tax Procedure Code or of any state tax law;

7 2. The exchange of information that is not protected by the  
8 federal Privacy Protection Act, 42 U.S.C., Section 2000aa et seq.,  
9 pursuant to reciprocal agreements entered into by the Tax Commission  
10 and other state agencies or agencies of the federal government;

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

13 4. The examination of records and files by the State Auditor  
14 and Inspector or the duly authorized agents of the State Auditor and  
15 Inspector;

16 5. The disclosing of information or evidence to the Oklahoma  
17 State Bureau of Investigation, Attorney General, Oklahoma State  
18 Bureau of Narcotics and Dangerous Drugs Control, any district  
19 attorney, or agent of any federal law enforcement agency when the  
20 information or evidence is to be used by such officials to  
21 investigate or prosecute violations of the criminal provisions of  
22 the Uniform Tax Procedure Code or of any state tax law or of any  
23 federal crime committed against this state. Any information  
24 disclosed to the Oklahoma State Bureau of Investigation, Attorney

1 General, Oklahoma State Bureau of Narcotics and Dangerous Drugs  
2 Control, any district attorney, or agent of any federal law  
3 enforcement agency shall be kept confidential by such person and not  
4 be disclosed except when presented to a court in a prosecution for  
5 violation of the tax laws of this state or except as specifically  
6 authorized by law, and a violation by the Oklahoma State Bureau of  
7 Investigation, Attorney General, Oklahoma State Bureau of Narcotics  
8 and Dangerous Drugs Control, district attorney, or agent of any  
9 federal law enforcement agency by otherwise releasing the  
10 information shall be a felony;

11 6. The use by any division of the Tax Commission of any  
12 information or evidence in the possession of or contained in any  
13 report or return filed with any other division of the Tax  
14 Commission;

15 7. The furnishing, at the discretion of the Tax Commission, of  
16 any information disclosed by its records or files to any official  
17 person or body of this state, any other state, the United States, or  
18 foreign country who is concerned with the administration or  
19 assessment of any similar tax in this state, any other state or the  
20 United States. The provisions of this paragraph shall include the  
21 furnishing of information by the Tax Commission to a county assessor  
22 to determine the amount of gross household income pursuant to the  
23 provisions of Section 8C of Article X of the Oklahoma Constitution  
24 or Section 2890 of this title. The Tax Commission shall promulgate



1 rules to give guidance to the county assessors regarding the type of  
2 information which may be used by the county assessors in determining  
3 the amount of gross household income pursuant to Section 8C of  
4 Article X of the Oklahoma Constitution or Section 2890 of this  
5 title. The provisions of this paragraph shall also include the  
6 furnishing of information to the State Treasurer for the purpose of  
7 administration of the Uniform Unclaimed Property Act;

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

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

20 10. The furnishing of information requested by any member of  
21 the general public and stated in the findings of the Tax Commission  
22 as to the adjustment and equalization of the valuation of real and  
23 personal property of the counties of the state, which are submitted  
24 to and certified by the State Board of Equalization pursuant to the

1 provisions of Section 2865 of this title and Section 21 of Article X  
2 of the Oklahoma Constitution;

3 11. The furnishing of information to an Oklahoma wholesaler of  
4 low-point beer, licensed under the provisions of Section 163.1 et  
5 seq. of Title 37 of the Oklahoma Statutes, or an association or  
6 organization whose membership is comprised of such wholesalers, of  
7 the licensed retailers authorized by law to purchase low-point beer  
8 in this state or the furnishing of information to a licensed  
9 Oklahoma wholesaler of low-point beer of shipments by licensed  
10 manufacturers into this state;

11 12. The furnishing of information as to the issuance or  
12 revocation of any tax permit, license or exemption by the Tax  
13 Commission as provided for by law. Such information shall be  
14 limited to the name of the person issued the permit, license or  
15 exemption, the name of the business entity authorized to engage in  
16 business pursuant to the permit, license or exemption, the address  
17 of the business entity, and the grounds for revocation;

18 13. The posting of notice of revocation of any tax permit or  
19 license upon the premises of the place of business of any business  
20 entity which has had any tax permit or license revoked by the Tax  
21 Commission as provided for by law. Such notice shall be limited to  
22 the name of the person issued the permit or license, the name of the  
23 business entity authorized to engage in business pursuant to the  
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1 permit or license, the address of the business entity, and the  
2 grounds for revocation;

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

8 15. After the filing of a tax warrant pursuant to law, the  
9 furnishing of information upon written request by any member of the  
10 general public as to any agreement entered into by the Tax  
11 Commission concerning a compromise of tax liability for an amount  
12 less than the amount of tax liability stated on such warrant;

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

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

20 18. The disclosure of information required in order to comply  
21 with the provisions of Section 2369 of this title;

22 19. The disclosure to an employer, as defined in Sections  
23 2385.1 and 2385.3 of this title, of information required in order to  
24 collect the tax imposed by Section 2385.2 of this title;

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

5        21. The disclosure of information directly involved in the  
6 resolution of the protest by a taxpayer to an assessment of tax or  
7 additional tax or the resolution of a claim for refund filed by a  
8 taxpayer, including the disclosure of the pendency of an  
9 administrative proceeding involving such protest or claim, to a  
10 person called by the Tax Commission as an expert witness or as a  
11 witness whose area of knowledge or expertise specifically addresses  
12 the issue addressed in the protest or claim for refund. Such  
13 disclosure to a witness shall be limited to information pertaining  
14 to the specific knowledge of that witness as to the transaction or  
15 relationship between taxpayer and witness;

16        22. The disclosure of information necessary to implement an  
17 agreement authorized by Section 2702 of this title when such  
18 information is directly involved in the resolution of issues arising  
19 out of the enforcement of a municipal sales tax ordinance. Such  
20 disclosure shall be to the governing body or to the municipal  
21 attorney, if so designated by the governing body;

22        23. The furnishing of information regarding incentive payments  
23 made pursuant to the provisions of Sections 3601 through 3609 of  
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1 this title or incentive payments made pursuant to the provisions of  
2 Sections 3501 through 3508 of this title;

3 24. The furnishing to a prospective purchaser of any business,  
4 or his or her authorized representative, of information relating to  
5 any liabilities, delinquencies, assessments or warrants of the  
6 prospective seller of the business which have not been filed of  
7 record, established, or become final and which relate solely to the  
8 seller's business. Any disclosure under this paragraph shall only  
9 be allowed upon the presentment by the prospective buyer, or the  
10 buyer's authorized representative, of the purchase contract and a  
11 written authorization between the parties;

12 25. The furnishing of information as to the amount of state  
13 revenue affected by the issuance or granting of any tax permit,  
14 license, exemption, deduction, credit or other tax preference by the  
15 Tax Commission as provided for by law. Such information shall be  
16 limited to the type of permit, license, exemption, deduction, credit  
17 or other tax preference issued or granted, the date and duration of  
18 such permit, license, exemption, deduction, credit or other tax  
19 preference and the amount of such revenue. The provisions of this  
20 paragraph shall not authorize the disclosure of the name of the  
21 person issued such permit, license, exemption, deduction, credit or  
22 other tax preference, or the name of the business entity authorized  
23 to engage in business pursuant to the permit, license, exemption,  
24 deduction, credit or other tax preference;

1        26. The examination of records and files of a person or entity  
2 by the Oklahoma State Bureau of Narcotics and Dangerous Drugs  
3 Control pursuant to a court order by a magistrate in whose  
4 territorial jurisdiction the person or entity resides, or where the  
5 Tax Commission records and files are physically located. Such an  
6 order may only be issued upon a sworn application by an agent of the  
7 Oklahoma State Bureau of Narcotics and Dangerous Drugs Control,  
8 certifying that the person or entity whose records and files are to  
9 be examined is the target of an ongoing investigation of a felony  
10 violation of the Uniform Controlled Dangerous Substances Act and  
11 that information resulting from such an examination would likely be  
12 relevant to that investigation. Any records or information obtained  
13 pursuant to such an order may only be used by the Oklahoma State  
14 Bureau of Narcotics and Dangerous Drugs Control in the investigation  
15 and prosecution of a felony violation of the Uniform Controlled  
16 Dangerous Substances Act. Any such order issued pursuant to this  
17 paragraph, along with the underlying application, shall be sealed  
18 and not disclosed to the person or entity whose records were  
19 examined, for a period of ninety (90) days. The issuing magistrate  
20 may grant extensions of such period upon a showing of good cause in  
21 furtherance of the investigation. Upon the expiration of ninety  
22 (90) days and any extensions granted by the magistrate, a copy of  
23 the application and order shall be served upon the person or entity

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1 whose records were examined, along with a copy of the records or  
2 information actually provided by the Tax Commission;

3 27. The disclosure of information, as prescribed by this  
4 paragraph, which is related to the proposed or actual usage of tax  
5 credits pursuant to Section 2357.7 of this title, the Small Business  
6 Capital Formation Incentive Act or the Rural Venture Capital  
7 Formation Incentive Act. Unless the context clearly requires  
8 otherwise, the terms used in this paragraph shall have the same  
9 meaning as defined by Section 2357.7, 2357.61 or 2357.72 of this  
10 title. The disclosure of information authorized by this paragraph  
11 shall include:

- 12 a. the legal name of any qualified venture capital  
13 company, qualified small business capital company, or  
14 qualified rural small business capital company,
- 15 b. the identity or legal name of any person or entity  
16 that is a shareholder or partner of a qualified  
17 venture capital company, qualified small business  
18 capital company, or qualified rural small business  
19 capital company,
- 20 c. the identity or legal name of any Oklahoma business  
21 venture, Oklahoma small business venture, or Oklahoma  
22 rural small business venture in which a qualified  
23 investment has been made by a capital company, or

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1           d.    the amount of funds invested in a qualified venture  
2                capital company, the amount of qualified investments  
3                in a qualified small business capital company or  
4                qualified rural small business capital company and the  
5                amount of investments made by a qualified venture  
6                capital company, qualified small business capital  
7                company, or qualified rural small business capital  
8                company;

9           28.   The disclosure of specific information as required by  
10           Section 46 of Title 62 of the Oklahoma Statutes; ~~or~~

11           29.   The disclosure of specific information as required by  
12           Section ~~3~~ 205.5 of this ~~act~~ title; or

13           30.   The disclosure of specific information as required by  
14           Section 3 of this act.

15           D.    The Tax Commission shall cause to be prepared and made  
16           available for public inspection in the office of the Tax Commission  
17           in such manner as it may determine an annual list containing the  
18           name and post office address of each person, whether individual,  
19           corporate, or otherwise, making and filing an income tax return with  
20           the Tax Commission.

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



1 E. The Tax Commission shall prepare or cause to be prepared a  
2 report on all provisions of state tax law that reduce state revenue  
3 through exclusions, deductions, credits, exemptions, deferrals or  
4 other preferential tax treatments. The report shall be prepared not  
5 later than October 1 of each even-numbered year and shall be  
6 submitted to the Governor, the President Pro Tempore of the Senate  
7 and the Speaker of the House of Representatives. The Tax Commission  
8 may prepare and submit supplements to the report at other times of  
9 the year if additional or updated information relevant to the report  
10 becomes available. The report shall include, for the previous  
11 fiscal year, the Tax Commission's best estimate of the amount of  
12 state revenue that would have been collected but for the existence  
13 of each such exclusion, deduction, credit, exemption, deferral or  
14 other preferential tax treatment allowed by law. The Tax Commission  
15 may request the assistance of other state agencies as may be needed  
16 to prepare the report. The Tax Commission is authorized to require  
17 any recipient of a tax incentive or tax expenditure to report to the  
18 Tax Commission such information as requested so that the Tax  
19 Commission may provide the information to the Incentive Review  
20 Committee or fulfill its obligations as required by this subsection.  
21 The Tax Commission may require this information to be submitted in  
22 an electronic format. The Tax Commission may disallow any claim of  
23 a person for a tax incentive due to its failure to file a report as  
24 required under the authority of this subsection. The Tax Commission

1 may consult with the Incentive Review Committee to develop a  
2 reporting system to obtain the information requested in a manner  
3 that is the least burdensome on the taxpayer.

4 F. It is further provided that the provisions of this section  
5 shall be strictly interpreted and shall not be construed as  
6 permitting the disclosure of any other information contained in the  
7 records and files of the Tax Commission relating to income tax or to  
8 any other taxes.

9 G. Unless otherwise provided for in this section, any violation  
10 of the provisions of this section shall constitute a misdemeanor and  
11 shall be punishable by the imposition of a fine not exceeding One  
12 Thousand Dollars (\$1,000.00) or by imprisonment in the county jail  
13 for a term not exceeding one (1) year, or by both such fine and  
14 imprisonment, and the offender shall be removed or dismissed from  
15 office.

16 H. Offenses described in Section 2376 of this title shall be  
17 reported to the appropriate district attorney of this state by the  
18 Tax Commission as soon as the offenses are discovered by the Tax  
19 Commission or its agents or employees. The Tax Commission shall  
20 make available to the appropriate district attorney or to the  
21 authorized agent of the district attorney its records and files  
22 pertinent to prosecutions, and such records and files shall be fully  
23 admissible as evidence for the purpose of such prosecutions.

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1           SECTION 3.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 205.6 of Title 68, unless there  
3 is created a duplication in numbering, reads as follows:

4           A.   The Oklahoma Tax Commission shall prepare and maintain a  
5 list of all taxpayers who have claimed any tax credit authorized by  
6 any provisions of state law and related to a tax administered by the  
7 Tax Commission.   The Office of State Finance shall cause the list to  
8 be posted on the Internet.   The Office of State Finance shall  
9 include the name and address of each taxpayer who claimed a credit,  
10 the amount of such credit and the specific statutory provision under  
11 which the credit was claimed.   The Internet list shall be updated  
12 monthly.

13           B.   For the purposes of this section "tax credit" means a credit  
14 against tax liability that is a credit administered by the Tax  
15 Commission, excluding credits authorized under paragraphs 1 and 2 of  
16 subsection B of Section 2357, Section 2357.4 and Sections 2357.29  
17 and 2357.43 of Title 68 of the Oklahoma Statutes.

18           C.   In addition to the disclosure required by subsection A of  
19 this section, for any tax credit that may be claimed by any person  
20 or any lawfully recognized business entity pursuant to the  
21 provisions of Sections 2357.62 and 2357.73 of Title 68 of the  
22 Oklahoma Statutes, the Oklahoma Tax Commission shall maintain a list  
23 of any person and any such entity that may be able to claim any such  
24 credit as a result of the allocation of tax credits based upon the

1 pass-through federal income tax treatment applicable to the entity  
2 that makes a qualified investment, as such term is defined by  
3 paragraph 6 of Section 2357.61 of this title and paragraph 7 of  
4 Section 2357.72 of this title, in either a qualified small business  
5 capital company or a qualified rural small business capital company.  
6 For purposes of this subsection, the Tax Commission shall determine  
7 the identity of such persons and legal entities as of the December  
8 31 date of the calendar year during which the qualified investment  
9 is made.

10 D. The provisions of this section shall become effective upon  
11 the availability of funds.

12 SECTION 4. This act shall become effective July 1, 2010.

13 SECTION 5. It being immediately necessary for the preservation  
14 of the public peace, health and safety, an emergency is hereby  
15 declared to exist, by reason whereof this act shall take effect and  
16 be in full force from and after its passage and approval.

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1 Passed the House of Representatives the 2nd day of March, 2010.

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4 Presiding Officer of the House of  
Representatives

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6 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2010.

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9 Presiding Officer of the Senate