

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

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

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

SECTION 2. 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:

1 As used in this act:

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

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

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

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

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

21 c. is designated by the rural fund as a capital  
22 investment under this act and is certified by the Tax  
23 Commission under the provisions of Section 3 of this  
24 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  
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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 3. 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 4. 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  
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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 5. 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 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 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.

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1           SECTION 6.           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 7.           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 8.           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 9. This act shall become effective November 1, 2022.

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

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4 Presiding Officer of the House  
of Representatives

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

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9 Presiding Officer of the Senate